

HONOURABLE SRI JUSTICE P.NAVEEN RAO

CIVIL REVISION PETITION NO. 2341 of 2015

Date: 05.10.2015

Between:

P.Chandra Sekhar, S/o P.Kari Basappa,
Aged about 63 years, Occu: Retired Mill Employee,
Rajendra Nagar, Guntakal, Anantapuram District,
Presently R/o.D.No.1/51, Ayyavaripalli Village,
Guntakal Mandal, Anantapuram District.

.... Revision Petitioner/Petitioner /Plaintiff

AND

S.Pushpalatha W/o A.Rajesh Kumar, Aged 32 years,
Occu: Housewife, r/o.D.No.17/1145-B-19, Rajendra
Nagar, Extension Road No.1, Near Sri Venkateswara
Swamy Temple, Guntakal, Anantapuram district
And another.

.. Respondents/Respondents/Defendants

This Court made the following :

HON'BLE SRI JUSTICE P.NAVEEN RAO
CIVIL REVISION PETITION No.2341 of 2015

ORDER:

Petitioner is the plaintiff and petitioner in I.A.No.29 of 2015 in O.S.No.10 of 2011 on the file of Junior Civil Judge at Guntakal.

2. Heard the learned counsel for the petitioner and the respondents.

3. Petitioner filed the suit praying for declaration that he is the lawful and absolute owner of the suit schedule property shown as ABCD in plaint schedule plan and to put him in possession; grant permanent injunction restraining the defendants and their men from interfering with the suit schedule property and direction to the defendants to remove the constructions made in the plaint schedule ABCD property made by encroaching into the property of the plaintiff.

4. After closure of the evidence, petitioner filed I.A.No.29 of 2015 to reopen the suit for the purpose of adducing additional evidence and marking additional documents. Petitioner claimed that as per the deposition by the defendants, on the eastern side of the site apportioned to the share of younger brother of the petitioner, whereas western portion apportioned to him and he sold his share to Adinarayana and, therefore, he has no other property. According to petitioner, he had larger extent of land available at the subject premises and after selling the land to Adinarayana and A.Mohan Krishna, he is still left with five cents of land and to establish that he still has five cents of land in the subject premises which is occupied by defendants, petitioner intend to bring additional evidence on record.

5. Defendants opposed such claim contending that either in the plaint or in his chief-affidavit, did petitioner claim that he has larger extent of land in the subject premises. The stand of the defendants was known in the written statement filed by them. Thus, it is not a case where new material has come to the knowledge of the petitioner after the closer of evidence, which was not within his knowledge when he filed the suit and when he gave the list of documents sought to be relied upon by him and marked as exhibits. Only with an intention to drag on the matter, petitioner has come up with the application.

6. On detailed consideration of the rival contentions, the trial Court came to the conclusion that it cannot be said that petitioner did not have the documents in his power and possession at the time of filing of the suit. He conveniently kept quiet all along and suddenly woke up without any justification after closing of the evidence and when the matter was coming up for arguments. Trial Court held that Court cannot permit the petitioner to adduce evidence to fill up lacuna in the evidence and after the evidence of the defendants is completed.

7. Learned counsel for the petitioner contended that since defendants contended that petitioner does not have any land in the subject premises, he has to bring additional evidence to support his contentions. He contended petitioner is not seeking to bring new evidence on record which was not known to the defendants. The additional evidence he seeks to bring on record is relevant for proper adjudication of the matter and helps the Court to determine the issues effectively and does not cause prejudice to the defendants.. He, therefore, submits that the trial Court erred in dismissing the petition.

8. Learned counsel places reliance on the following decisions of this Court:

i) **Rajah R.V.G.K. Ranga Rao and another vs. Nizams Sugar Limited**

ii) **G.Balaiah vs. G.Ramachander and others**

iii) **G.P.R.Housing (P) Ltd., Hyderabad v. C.Prithvi Raj Reddy and others**

9. Learned counsel for the respondents/defendants contended that it is not a case where petitioner discovered new material which was not within his knowledge when suit was instituted and trial was conducted. Petitions are filed only to drag on the matter having realized weakness in the defence.

10. The plaintiff sought declaration that he is the lawful and absolute owner of the suit schedule property and prayed to grant perpetual injunction restraining the defendants from interfering in the suit schedule property. Petitioner alleges that

defendants encroached into the property of the petitioner and constructed building illegally. In the facts of this case, it cannot be said that petitioner was not in the knowledge of the documents which he now seeks to bring on record. As a matter of course a party to litigation cannot be permitted to mark additional documents after closure of the evidence, more so when it prejudices the other party. The decisions relied upon by the counsel for the petitioner do not come to the aid of the petitioner. In the facts of this case, I do not see any error in the decision arrived by the Court below warranting interference by this Court. The Court below has exercised its discretion on a careful consideration of the rival contentions and I am in agreement with the view taken by the Court below.

11. The Civil Revision Petition is accordingly dismissed. Miscellaneous petitions if any pending in the civil revision petition shall stand closed. There shall be no order as to costs.

_____**JUSTICE P.NAVEEN RAO**

Date : 05.10.2015

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