

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
CIVIL REVISION PETITION No.3538 of 2015

-
04.09.2015

Between:

Annam Venkata Subba Rao and others

...Petitioners

And

The State of Andhra Pradesh,
represented by the District Collector, Guntur and others

...Respondents

Counsel for the petitioners: Mr.V.Ramu

Counsel for the respondents: --

The Court made the following:

-
-
-
-
-
-
-
-
-
-
-

ORDER:

This civil revision petition arises out of order, dated 07.08.2015, in I.A.No.357 of 2015 in O.S.No.155 of 2011 on the file of the Principal Junior Civil Judge, Narasaraopet.

The petitioners filed the aforementioned suit for permanent injunction restraining the respondents from causing any obstructions to draw water from the plaint schedule bode canal. The contesting respondents/defendants filed a written statement and thereafter oral evidence was recorded and the trial was completed. Later, the petitioners filed the aforementioned I.A. for reopening the evidence. They also filed two other applications for summoning respondent No.4, who is defendant No.4 in the suit, and for recording his evidence with reference to an endorsement, dated 23.06.2010. The aforementioned I.A. having been dismissed by the lower Court, the present civil revision petition is filed by the petitioners/plaintiffs.

A perusal of the record shows that the endorsement with reference to which the petitioners have sought for summoning respondent No.4/defendant No.4 was issued as far back as 23.06.2010, while the suit was filed in 2011 after the said endorsement was addressed to petitioner No.1 himself by respondent No.4. The plaint also made a reference to an endorsement though no specific mention to the endorsement, dated 23.06.2010, was made. These facts would clearly reveal that the petitioners were very much in the custody of the said endorsement and as rightly observed by the lower Court, no explanation was offered by them for not filing the application at appropriate time for summoning respondent No.4.

The learned counsel for the petitioners submitted that his clients have explained in the affidavit filed in support of the aforementioned I.A. that their application filed for appointment of an Advocate Commissioner was rejected by giving an opportunity to them to file proper application for receiving additional evidence. In my opinion, this does not constitute sufficient reason for the petitioners' failure to file the endorsement as a

material document and seek summoning of respondent No.4 at an earlier point of time. Having allowed the evidence to be closed, the petitioners cannot be permitted to seek reopening of the evidence evidently to fill the shortcomings in it. If such applications are allowed, the suits would get protracted endlessly. The petitioners, who are not diligent in adducing the relevant evidence at appropriate time, cannot be allowed to seek reopening of the suit which will have the effect of unduly prolonging the same. As the petitioners failed to offer proper explanation for their failure to file the application for summoning respondent No.4 at relevant point of time, the lower Court has justifiably dismissed the aforementioned I.A.

Hence, I do not find any reason to interfere with the order of the lower Court.

The Civil Revision Petition is accordingly dismissed.

As a sequel to dismissal of the civil revision petition, C.R.P.M.P.No.4749 of 2015 filed by the petitioners for interim relief shall stand dismissed as infructuous.

(C.V.NAGARJUNA REDDY, J)

04th September, 2015

GHN