

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.No.739 of 2015

ORDER:

Heard learned counsel for the petitioner.

Plaintiff in O.S.No.74 of 2006 in the Court of Principal Junior Civil Judge, Gadwal is the revision petitioner. The revision is directed against the order dated 22.01.2015 in I.A.No.401 of 2014. The plaintiff filed I.A.No.401 of 2014 for the relief of re-opening the suit, another application for recalling P.W.1 and yet another application seeking the leave of Court to file a few additional documents.

The trial Court through impugned order dated 22.01.2015, dismissed I.A.No.401 of 2014. With the dismissal of I.A.No.401 of 2014, the other applications, it is stated, are dismissed through separate docket orders.

It is not in dispute that the suit is for relief of perpetual injunction and suit is ripe for argument and at that stage has undergone several adjournments. The plaintiff on 21.07.2014 applied to the Tahsildar for supply of revenue extracts. It is the case of plaintiff that the Tahsildar issued copy of panchanama dated 21.08.2014 and certificate evidencing the enjoyment of petition land by the plaintiff. The plaintiff, with a view to prove the possession, now has filed these three applications for re-opening, recalling and leave of the Court.

Mr. Shafath Ahmed Khan, learned counsel for the petitioner, contends that the reasoning of the trial Court in dismissing the applications suffers from patent illegality, for the learned trial Judge was excessively swayed by the delay or timing of filing of these applications, but failed to consider the relevancy of these documents in properly and effectively deciding the real issue between the parties. Learned counsel further submits that the trial Court ought to have given one opportunity and the exercise of discretion suffers from illegality and liable to be set aside.

I have perused the material available on record and taken note of the contentions alleged on behalf of the plaintiff.

The suit is one for perpetual injunction. The plaintiff now desires to bring on record the documents issued by the Revenue Department in the month August, 2014. These copies apparently appear to have been issued after the evidence of both the parties is completed.

The plaintiff having filed the suit for protection of his possession, after a long lapse of 9 years, cannot pray for reopening the suit more particularly by reference to the documents issued by the Revenue Department in the month of August 2014. Firstly in the opinion of this Court while considering the request of re-opening, the trial Court is not under obligation to consider the relevancy of documents. Secondly, the re-opening is considered where a fair and reasonable opportunity in conducting trial is denied on account of avoidable and un-avoidable circumstances to a party. In a given case, to meet the ends of justice, the Court may consider the documents which are sought to be marked by a party. These circumstances are considered on case to case basis. So far as the order impugned is concerned, I see no illegality or irregularity in exercise of jurisdiction by the trial Court and the discretion is rightly exercised.

The Civil Revision Petition is dismissed. No order as to costs.

Miscellaneous petitions, if any, pending in this revision petition shall stand closed.

S.V. BHATT, J

Date: 06.03.2015

KLP