

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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Civil Revision Petition Nos.2406 and 2568 of 2015

COMMON ORDER:

Both these revision petitions, under Article 227 of the Constitution of India, are preferred by the 2nd defendant in O.S.No.406 of 2004 aggrieved by the common order passed by the Learned 1st Additional District Judge, Visakhapatnam in I.A.Nos.167 and 166 of 2015 dated 29.04.2015.

I.A.No.166 of 2015 was filed to reopen the Suit for the purpose of adducing further evidence on behalf of the plaintiff, and I.A.No.167 of 2015 was filed to recall PW.2 for the purpose of giving further evidence in the interest of justice. The respondent-plaintiff filed these two I.As. to have the certified copies of the sanctioned lay out Nos.L.P.79/89 and L.P.16/90, marked through PW.2, contending that these documents (L.P.79/89 and L.P.16/90) were marked as exhibits in O.S.No.404 of 2010 filed by his mother; summons were issued to the Officer of Visakhapatnam Urban Development Authority, who had since retired from service; and, after marking of the certified copies, the plaintiff would take steps to summon the officials of the Visakhapatnam Urban Development Authority to prove the genuineness of these certified copies.

Sri Ravi Cheemalapati, Learned Counsel for the petitioner, would submit that the application to mark these certified copies is only to fill-up the lacuna pointed out in cross-examination of PW.2.

It is evident from the order of the Court below that the matter in controversy between the parties involved location and identification of the Suit schedule property. In such a case, these certified copies, and summoning witnesses from the Visakhapatnam Urban Development Authority, would aid the Court below in dispensing justice.

The Supreme Court in **Vadiraj Nagappa Vernek v. Sharad**

Chand Prabhakar Gogate^[1] held that the power to recall and examine a witness must be exercised sparingly in appropriate cases and not as a general rule; it is to be invoked not to fill up the lacunae in the evidence of the witness which has already been recorded, but to clear any ambiguity that may have arisen during the course of his examination.

The documents sought to be marked are certified copies of the sanctioned lay out. As the dispute in the Suit relates to location and identification of the Suit schedule property, the Court below was justified in reopening the Suit, and in permitting the certified copies of L.P.79/89 and L.P.16/90 to be marked. There is, however, considerable force in the submission of Sri Ravi Cheemalapati, Learned Counsel for the petitioner-2nd defendant, that the genuineness of these documents can only be ascertained if the officials of Visakhapatnam Urban Development Authority are examined. Sri P.S.P.Suresh Kumar, Learned Counsel for the respondents, would fairly state that these certified copies would be marked only through officials of the Visakhapatnam Urban Development Authority, I see no reason, therefore, to interfere with the order of the Court below. Suffice to make it clear that the certified copies of L.P.79/89 and L.P.16/90 shall be permitted to be marked only through the officials of Visakhapatnam Urban Development Authority to ensure that it is genuine.

Both the Civil Revision Petitions are, accordingly, disposed of. The Miscellaneous Petitions, if any pending, shall also stand disposed of. No costs.

(RAMESH RANGANATHAN, J)

Date:18.09.2015.

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[\[1\]](#) 2009 (3) ALT 25 (SC)