

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

**Civil Revision Petition Nos.2495, 2496, 2497,
2498, 2500, 2501, 2502, 2503, 2504, 2505 &
2506 of 2015**

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Dated 03.07.2015

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Common Order:

These eleven Civil Revision Petitions arise out of the separate orders passed in each set of three Interlocutory Applications filed in four suits, wherein the plaintiff and defendant No.8 are common (except CRP.No.2499 of 2015 filed in respect of the order passed in an Application in OS.No.113 of 2008).

It will suffice, if details of one set of Applications filed in OS.No.114 of 2008, are mentioned in this order.

IA.No.1797 of 2015 is filed for reopening the evidence, IA.No.1798 of 2015 is filed for recalling DW.8 for further evidence and IA.No.1799 of 2015 is filed to receive documents in OS.No.114 of 2008. Similar IAs have been filed in three other suits viz., OS.Nos.113, 118 and 117 of 2008. All these IAs were dismissed by the learned Principal District Judge, Guntur.

For convenience, the parties shall be hereinafter referred to as they are arrayed in OS.No.114 of 2008.

The brief facts leading to the filing of these Civil Revision Petitions are that the plaintiff has filed the above-mentioned four suits in the Court of the learned Principal District Judge, Guntur, for specific performance of agreements of sale against certain defendants, of whom defendant No.8- M/s.Sriven Ventures is common. It is the pleaded case of the plaintiff that all the defendants except defendant No.8 have entered into agreements of sale with him and that instead of executing the sale deeds in his favour, they have executed the sale deeds in favour of defendant No.8. All the defendants except defendant No.8 have remained *ex parte* before the lower Court. Defendant No.8 has seriously contested the suits by filing written statements and also examining its witnesses. Admittedly, the evidence was closed in December, 2012. At the advanced stage of arguments, defendant No.8 has come out with the above-mentioned IAs. The main purpose, as pleaded by defendant No.8

behind filing these IAs, is to produce two documents viz., FIR, dated 17-08-2012, and chargesheet, dated 05-03-2013, filed against two persons viz., Mr.Sambasiva Rao and Mr.Hari Babu, in evidence. One of the defences raised by defendant No.8 was that the said two persons have set up the plaintiff to file the suits. It was, therefore, pleaded that those two documents were relevant for the purpose of adjudication of the suits.

The learned District Judge, while rejecting these Applications, has *inter alia* assigned the following reasons:

“In the light of the above facts on record that the trial of the suit had commenced in the year 2010, recording of evidence on both the sides was concluded some where in the year 2012, and the suit was coming on for hearing the arguments of both sides, and the oral arguments were heard, and on the request of the petitioner suit was adjourned for five times to enable him to file the written arguments under Order 18 Rule 3-A CPC, and at such stage the Present petition was filed, to reopen the petitioner side evidence and another Petition to receive certain documents for the purpose of introducing them in evidence, and yet another petition for

that purpose to recall the petitioner, which if allowed would result in the reopening of the trial of the suit, consequently, when one party adduces evidence, the other party would have a right of adducing rebuttal evidence. Therefore, the petitioner is required to show a valid and bonafide reason, and state the circumstances under which he could not secure the documents he has now filed under a separate petition to receive them, and enable him to adduce further evidence.

In the separate petition filed by the petitioner under Order VIII Rule 1-A CPC to receive documents IA.No.1799/2015, this Court detailedly dealt with the same plea and declined to grant leave to file those documents to introduce them in evidence giving reasons therein. When the very purpose of filing this Petition is to reopen the petitioner's side evidence and thereby enable the petitioner is to introduce some more documents in evidence, and thereby also permitting him to recall himself for that purpose, when not found bonafide valid under the provision of law Order VIII Rule 1-A CPC, thereby no leave was granted, it is not possible to consider in this Petition the plea of the petitioner, to reopen his side of evidence, and thereby to reopen recording of the evidence which was concluded more than two years ago."

Under Order VIII Rule 1A of the Code of Civil Procedure, 1908, a duty is cast on the defendant to produce the documents relied upon by him by entering the same in a list, when the written statement is presented by him. Under sub-rule (2) thereof, where any such document is not in the possession or power of the defendant, he shall, wherever possible, state in whose possession or power it is. Sub-rule (3) places a bar on the defendant on producing the document, which ought to be produced in Court, but not so produced, without the leave of the Court.

At the hearing, the learned Counsel for defendant No.8 has not disputed the fact that by the time the defendants' side evidence was closed, FIR, dated 17-08-2012, was registered against the two persons, who were third parties to the suit. Defendant No.8 has not come out with any reason as to why he did not produce the said document in evidence. Moreover, the documents, which are sought to be produced in evidence, are not related to the plaintiff at all. When defendant No.8 seeks to produce additional evidence much after completion of trial, it shall satisfy the Court

that due to reasons beyond its control, it could not produce these documents earlier. Defendant No.8 failed to give any cogent reasons for reopening the evidence at the stage when the suits were coming up for arguments on its side. The lower Court has, therefore, very justifiably dismissed the Applications filed by defendant No.8 for reopening the evidence. Hence, I do not find any material illegality or jurisdictional error in the orders of the lower Court warranting interference of this Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India.

The Civil Revision Petitions are, accordingly, dismissed.

As a sequel to dismissal of the Civil Revision Petitions, miscellaneous petitions, pending if any, stand dismissed as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 3rd July, 2015
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