

THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

CIVIL REVISION PETITION No.736 of 2015

ORDER:

This Civil Revision Petition is filed challenging the order dt.20-10-2014 in I.A.No.219 of 2013 in O.S.No.327 of 2005 of the Principal Senior Civil Judge, Nellore.

2. The petitioner herein is plaintiff in the suit. He filed the suit for declaration of his title and for a perpetual injunction. But subsequently amended the plaint alleging that he was dispossessed after filing of suit and sought relief of recovery of possession also. The amendment was allowed vide order dt.29-12-2008 in I.A.No.149 of 2008.
3. Thereafter evidence of both sides was concluded on 08-12-2009. The petitioner got the matter reopened thereafter and got recalled D.W.1 and cross-examined him. It was again posted for arguments on 10-03-2010, respondents filed their written arguments and matter was posted for petitioner's arguments.
4. The petitioner again filed I.A.No.201 of 2010 to reopen the matter and I.A.No.202 of 2010 to receive endorsement of the Medical Superintendent in Rc.06/E1/10 dt.04-01-2010 and to summon the Medical Officer, Government WFTB & CD Hospital to speak about it. These applications were dismissed on 29-04-2010 and the same were confirmed in Revision by this Court.
5. Again the matter was posted for arguments. The petitioner filed I.A.No.355 of 2010 to reopen the matter and I.A.No.356 of 2010

to eschew the evidence of D.W.2 apart from I.A.No.358 of 2010 to receive documents. I.A.No.356 of 2010 filed to eschew the evidence of D.W.2 was dismissed and was confirmed in Revision by this Court.

6. However, I.A.No.358 of 2010 to receive documents was allowed on 09-07-2010.
7. Thereafter P.W.1 was recalled and further cross-examined. Petitioner again filed I.A.No.450 of 2010 to summon the Sub-Inspector of Police to speak about a letter addressed by the Mandal Revenue Officer dt.06-02-2006. It was dismissed on 26-07-2010. He again filed I.A.No.62 of 2011 to reopen the matter and I.A.No.63 of 2011 to summon the Mandal Revenue Office to speak about the letter dt.06-02-2006. This was dismissed on 08-02-2012 and the matter was again posted for arguments.
8. Thereafter the suit was transferred from the Court of the II Additional Senior Civil Judge (Fast Track), Nellore to the Court of the Principal Senior Civil Judge, Nellore.
9. The petitioner then changed his counsel, who filed vakalat on 12-12-2012 and sought time for addressing arguments from 19-12-2012 to 13-02-2013.
10. On 13-02-2013, the counsel for petitioner filed I.A.No.138 of 2013 and I.A.No.139 of 2013 to again reopen the matter and to adduce further evidence. These applications were allowed on condition of payment of costs of Rs.100/- and P.W.1 was ordered to be recalled to adduce further evidence by 28-02-2013.

11. Instead of adducing further evidence on 28-02-2013, the petitioner filed I.A.No.219 of 2013 to grant leave to file certain documents and to permit him to mark them as Exhibits on his behalf. He also filed another I.A.No.254 of 2013 to receive some more documents.
12. In the affidavit filed in support of I.A.No.219 of 2013, it was merely stated that petitioner obtained the list of documents mentioned in the petition and since they were essential to establish his case, they should have been marked as Exhibits.
13. Counter affidavit was filed by 2nd respondent opposing this application contending that no reasons are mentioned for not filing these documents earlier and even the documents sought to be filed are neither relevant nor admissible in evidence. It was contended that the said suit has been coming up for petitioner's arguments and at that stage, these applications are filed on frivolous grounds and they ought not to be entertained.
14. By order dt.20-10-2014, the Principal Senior Civil Judge, Nellore dismissed the said application.
15. The Court below set out how the matter was getting adjourned at the instance of petitioner from 08-12-2009 till 28-02-2013 when I.A.No.219 of 2013 was filed, and observed that petitioner has no right to get permission to file documents as and when he wishes. It relied upon the judgment in **C.Rama Mohan Reddy Vs. Kusetty Seshamma and others** wherein this Court interpreted Order VII Rule 14(1) and (3) C.P.C. and held that the power of the Court to grant leave to file documents at a later stage has to be exercised only if the plaintiff satisfies the Court that for

convincing reasons these documents could not be filed earlier; and that a party cannot be permitted to fish out evidence from time to time on installment basis. It also held that the petitioner had failed to satisfy the Court as to why he could not file the documents earlier. It observed that the documents filed by petitioner pertain to the year 2011 and 2012 and no reason is assigned why the petitioner had not filed them at an earlier point of time. It therefore held that there is no valid explanation for receiving these documents particularly when respondents had filed written arguments on 10-03-2009 itself, and consequently dismissed I.A.No.219 of 2013.

16. Challenging the same, this Revision is filed.
17. Although the learned counsel for petitioner contended that the Court below ought not to have made any observations on the relevancy and admissibility of the documents sought to be filed along with I.A.No.219 of 2013 while deciding the application under Order VII Rule 14(3) C.P.C., and contending that the said issue has to be decided only after receiving documents, I am of the opinion that notwithstanding the same, on the ground that petitioner has not furnished any valid reasons why the documents now sought to be filed by him were not filed as soon as they became available, the order of the Court below can be sustained.
18. In **Ravi Satish Vs. Edala Durga Prasad and others** and **Voruganti Narayana Rao Vs. Bodla Rammurthy and others**, this Court has held after considering Order VIII Rule 1(a) (3) C.P.C., which is analogous to Order VII Rule 14(3) C.P.C. that grant of leave to permit a party to file documents, which were not

filed along with their pleadings, is not for mere asking and that the Court is not a mere post office to receive documents even in the absence of any reasons being furnished for failure to file the said documents along with the pleadings.

19. From the facts narrated above, it is clear that the evidence of both sides was closed on 08-12-2009 and the matter had been coming up for arguments from that date and on 10-03-2010 respondents have even filed their written arguments. The petitioner had repeatedly got the matter reopened on some pretext or the other and delayed the disposal of the suit. The conduct of petitioner in avoiding to address arguments from December, 2009 to this date is clearly an attempt to drag on the suit and to harass the respondents. Since the petitioner's conduct does not appear to be *bona fide* and since the petitioner has not furnished any reasons in the affidavit filed in I.A.No.219 of 2013 why the documents which he seeks to file along with it were not filed as soon as they became available, I do not find any error of jurisdiction in the order passed by the Court below in dismissing I.A.No.219 of 2013.
20. I therefore do not find any merit in the Revision and it is accordingly dismissed. No costs.
21. Since the suit is an old suit, the Court below is directed to decide the suit as expeditiously as possible preferably by 31-12-2015.
22. As a sequel, miscellaneous petitions pending if any, shall stand disposed of.

JUSTICE M.S. RAMACHANDRA RAO

Date: 16-09-2015

Vsv