

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

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CIVIL REVISION PETITION No. 2995 of 2015

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ORDER:

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Assailing the order dated 30.12.2014 passed in I.A. No.266 of 2015 in O.S.No.202 of 2005 on the file of the Prl. Junior Civil Judge, Jagtial, wherein and whereunder an application filed under Order VIII Rule 1 A (3) R/w Section 151 of C.P.C. to receive documents was rejected, the present Revision is filed under Article 227 of the Constitution of India.

Respondent herein is the plaintiff and petitioners herein are the defendants before the trial Court. For the sake of convenience, the parties will hereinafter be referred to as arrayed before the trial Court.

The facts which led to filing of the Civil Revision Petition are as under:

The plaintiff filed O.S.No.202 of 2005 on the file of the Prl. Junior Civil Judge, Jagtial, seeking declaration and also perpetual injunction restraining the defendants and their men from interfering with his possession and enjoyment over the suit schedule property. The plaintiff claims to be the exclusive owner and possessor of an agricultural land admeasuring Ac.0.11 gts., situated in Sy.No.392/AA, situated at Mothe Village, Jagtial Mandal. The plaintiff claims to have purchased the said land from Kotagani Narsaiah, through a registered sale deed vide document No.507/2005 dated 19.02.2005 and his name was also mutated in the revenue records as pattadar and possessor of the said land. After getting the land registered in his name, the plaintiff developed the said land by spending huge amount. It is stated that due to escalation of prices of land, the defendant Nos.1 and 2 developed an intention to knock away the property and accordingly started interfering with the possession of the

plaintiff over the suit schedule property. When the plaintiff resisted the acts of defendant Nos.1 and 2, they brought into existence defendant No.3, who filed an application before the Mandal Revenue Officer, seeking ownership of the land. The Mandal Revenue Officer without verifying the death certificate and legal heir certificate of the original owner, submitted a report to the Revenue Divisional Officer and mutated the name of defendant No.3 as owner of the suit schedule property by deleting the name of the plaintiff. It is further stated that in spite of the order passed by the Joint Collector, the defendants are trying to interfere and occupy the suit schedule property with the help of anti-social elements. The interference of the defendants led to filing of the suit.

Written statement and additional written statements were filed by the defendants denying the allegations made in the plaint. While things stood thus and when the case is posted for the evidence of defendants, I.A.No.266 of 2015 came to be filed by the defendants to receive certain documents which are necessary to prove their case.

A counter came to be filed by the plaintiff stating that the defendants filed certain documents along with the affidavit at the belated stage and the same would cause great prejudice to the plaintiff. It is stated that the plaintiff is deprived of cross examine the witness on the documents which are sought to be produced now. It is also stated in the counter that most of the documents were obtained long back and no reasons are forthcoming as to why the documents are not filed along with the written statement.

Learned Principal Junior Civil Judge, after hearing both sides, dismissed the said application holding that since most of the documents are obtained long back and even prior to the evidence of plaintiff, no reasons are shown for delay in filing those documents. The explanation given by the defendants that those documents were given to their counsel but could not be filed cannot be accepted.

A perusal of the material placed before the Court would show that the documents which are now sought to be marked though some

are dated long prior to filing of the suit and some later but they were obtained during the course of evidence of plaintiff and were given to the counsel for the defendants. Therefore, the finding of the trial Court that the defendants are responsible for the delay in filing the documents may not be correct.

Under Order VIII Rule 1 A (3) of C.P.C., a document which ought to be produced in the Court by the defendants, but, is not so produced shall not, without the leave of the Court, be received in evidence. Clause (3) of Order VIII Rule 1A C.P.C. was incorporated by Act 22 of 2000 with a view to discourage the practice of the parties filing documents at a belated stage of the proceedings. The law is well settled that procedure is handmaid of justice. While procedural laws need to be adhered to in order to avoid long delays in disposal of the cases, at the same time, the Courts will have to make a delicate balance between strict adherence to these procedural laws and the substantial justice that needs to be ensured to the parties. In an anxiety to curb delays, stopping the parties from adducing relevant evidence would lead to failure of justice. However, fair amount of discretion is vested by Order VIII Rule 1A (3) C.P.C., in the Courts to permit filing the documents. No hard and fast principles can be laid down for the Courts as to how this discretion has to be exercised. While exercising such discretion, the Courts will have to consider relevant aspects such as the conduct of the parties, the nature of the documents that are sought to be filed and whether by permitting filing of such documents, the same will help the Court to adjudicate the suit in a more effective manner etc. The Court should also consider the stage at which the documents are sought to be filed. (***M.R.Anjaneyulu v. R.Subramanyam Achary***)

In ***Billa Jagan Mohan Reddy and another v. Billa Sanjeeva Reddy and others*** the Apex Court held as under:

“It is settled law that, if the documents are found to be relevant to decide the real issue in the controversy, and when the Court felt that interest of justice requires that the documents may be received, exercising the power under Order 41, Rule 27 C.P.C. the appellate Court would receive the documents and consider

their effect thereof. When such is the position, when the documents are sought to be produced in the trial Court, before the arguments are completed, normally they may be received; an opportunity given to prove them and rebuttal if any and their relevant and effect they may have, be considered in deciding the issues arising in the controversy. The High Court also committed the same error in not considering the effect in this behalf in the right perspective.”

From the above, it is clear that there is no hard and fast rule that the documents which are not filed along with the written statement cannot be accepted at a later stage. The Court will have to consider certain aspects namely conduct of parties, nature of documents which are sought to be filed and as to whether those documents would help the Court to adjudicate the suit in a more effective manner etc.

A perusal of the record shows that the case is still at the stage of defendants’ evidence. The defendants sought to bring on record certified copies of documents pertaining to certain transactions and also the documents showing registration of cases, both criminal and civil, against the plaintiff. Therefore, the argument of the learned counsel for the defendants that these documents are necessary for deciding the case on hand cannot be brushed aside at this stage.

The only ground on which the application was rejected by the trial Court was that the documents are filed at a belated stage and no explanation is forthcoming from the defendants for such delay. No finding is given as to whether the said documents will help the Court to adjudicate the matter in more effective manner. Since the documents which are sought to be marked are certified copies and some documents are true copies of the originals, definitely the same cannot be shunned away at this stage, more so, when the case is at the stage of defendants’ evidence. Moreover the documents are sought to be produced on record before the cross examination of the defendants. Therefore, the plaintiff will have an opportunity to cross examine the witness on those documents. Having regard to the facts and circumstances of the case, the trial Court ought to have permitted

the defendants to produce the documents in question subject to their admissibility and relevancy.

For the aforesaid reasons, the civil revision petition is allowed by setting aside the order dated 09.07.2015 passed in I.A.No.266 of 2015 in O.S.No.202 of 2005 on the file of the Prl. Junior Civil Judge, Jagtial. No order as to costs. Miscellaneous Petitions pending if any in this C.R.P. shall stand closed.

JUSTICE C. PRAVEEN KUMAR

30.09.2015

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