

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD  
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA  
PRADESH

FRIDAY THE TWENTYEIGHTH DAY OF AUGUST  
TWO THOUSAND AND FIFTEEN

PRESENT  
HONOURABLE SRI JUSTICE S.V. BHATT

CIVIL REVISION PETITION NO. 3321 OF 2015

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Between:

Naidu Srinivasulu Reddy ... Petitioner

V/s.

Naidu Vidyavathi & Ors. ... Respondents

Counsel for the Petitioner: Sri V. Siva Prasad Reddy

Counsel for the Respondents: Sri M.Subba Reddy

The Court made the following: [order follows]

HONOURABLE SRI JUSTICE S.V. BHATT

CIVIL REVISION PETITION NO. 3321 OF 2015

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ORDER:

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The Plaintiff in OS.No. 330 of 2007 is the Revision Petitioner.

The Revision is directed against the order in I.A.No. 192 of 2015 dated 29/06/2015.

2. The Revision Petitioner has filed a set of applications for reopen, recall and to receive registration extract of partition deed dated 17/05/2006. Admittedly the applications are filed by the Revision Petitioner when OS.No. 330 of 2007 was posted for arguments and at that stage underwent one or two adjournments. The reasons stated for instant prayers is required to be noted.

*"I submit that I filed the above suit for declaration and other consequential reliefs against the defendants. The suit is coming up for arguments on my side. While we are preparing arguments, it was found that the certified copy of the registered partition deed dated 17/5/2006 was not filed before this Hon'ble court for verification. The said document is a crucial document to decide the subject matter of the suit. At the time of cross examination of DW-1 it is also admitted the execution of the partition deed dated 17/5/2006. So the said document is necessary to mark as exhibit on my behalf. The said document is very much essential to prove my case. There are no willful latches or negligence on my side."*

3. The respondents opposed these applications. Having regard to the findings recorded by the learned trial Judge with which I am in

full agreement, I am not proposing to advert to the allegations in the counter filed by the first respondent.

4. The learned counsel appearing for the petitioner vehemently contends that the trial court has not properly appreciated the discretion vested in it and has proceeded as if it has no jurisdiction to permit introduction of document dated 17/5/2006 when the case is posted for arguments. According to the learned counsel, the trial court can exercise its discretion at any stage of the matter and the case on hand merits such exercise of jurisdiction. It is further contended that when a party can introduce additional evidence before the appellate court under Order-41, Rule 27 of CPC, refusal by the trial court to grant the prayers referred to above suffers from material illegality, this Court is required to consider the material available on record and pass appropriate order to meet the ends of justice. The learned counsel for the petitioner has placed strong reliance on the decision in **CABLE CORPORATION OF INDIA LIMITED, BOMBAY V/s. SANGHI INDUSTRIES LIMITED, RANGA REDDY DISTRICT**<sup>[1]</sup>.

5. The learned counsel appearing for the respondents opposes with vehemence the submissions advanced by the learned counsel for the petitioner. The learned counsel argues that

the Revision Petitioner is prosecuting the suit with utmost complacency and the Revision Petitioner cannot act according to his convenience or be allowed to abuse the procedure for reopening, recalling or filing documents with the leave of the court. The learned counsel particularly draws the attention of this court to the earlier efforts of the Revision Petitioner to adduce further evidence and that having regard to the allegations in the affidavit, no useful purpose will be served in either reopening, recalling or permitting the Revision Petitioner to introduce the document.

6. I have perused the material available on record and also the decisions reported in **CABLE CORPORATION OF INDIA LIMITED, BOMBAY V/s. SANGHI INDUSTRIES LIMITED, RANGA REDDY DISTRICT**. The decision relied upon by the Revision Petitioner refers to the competence of the court to grant leave under Rule 14 [3] Order-7 of CPC to file documents with the leave of the court. It is required to be noted that the trial court did not reject the prayers on the ground of lack of jurisdiction the court below, but on the ground that sufficient opportunities were given to the Revision Petitioner and the trial court therefore refused to exercise its discretion in my opinion for valid reasons. As I am in full agreement with the view taken by the learned trial Judge, no further consideration of the issue is

required.

7. The Civil Revision Petition is dismissed at the stage of admission. No order as to costs.

5. As a sequel, miscellaneous petitions if any, pending in this Civil Revision Petition shall stand closed.

JUSTICE S.V. BHATT

28/08/2015

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HONOURABLE SRI JUSTICE S.V. BHATT

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