

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.1457 of 2015

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, by the unsuccessful respondents/plaintiffs, is directed against the order dated 18.02.2015 of the learned Additional Senior Civil Judge, Ongole passed in I.A.No.1679 of 2014 in O.S.No.278 of 2006 filed by the petitioners/defendants 4 and 5 under Order VIII Rule 1(3) read with Section 151 of the Code of Civil Procedure, 1908 requesting to receive on file the certified copies of the sale deeds dated 15.02.2006 and 01.03.2006 by condoning the delay in filing the same and granting leave.

2. I have heard the submissions of the learned counsel for the revision petitioners/plaintiffs ('plaintiffs', for brevity) and the learned counsel for respondents 1 and 2 herein/defendants 4 and 5 ('defendants 4 and 5', for brevity). I have perused the material record.

3. The facts, which lead to filing of this Civil Revision Petition, in brief, are as follows:-

The plaintiffs brought the suit against the defendants for declaration of title, mandatory injunction and other reliefs. The defendants 4 and 5 are resisting the suit along with the other defendants. When the suit is at the stage of recording of the evidence of the said defendants 4 and 5, they had filed the aforementioned application. The said application was resisted by the plaintiffs 1 to 6 by filing a counter. On merits and by the orders impugned, the Court below had allowed the petition of the defendants and granted them leave to file the documents.

4. To begin with, it is necessary to refer to the pleadings of the parties.

4.1 The case of the defendants 4 and 5 in support of their request for receiving the documents on file, in brief, is as follows:- "They had earlier filed the photostat copies of the documents at the time of enquiry into the

interlocutory application filed for temporary injunction. They had later obtained the certified copies of the two sale deeds dated 15.02.2006 and 01.03.2006 from the office of the Sub-Registrar, Ongole as the originals are deposited with the State Bank of India, Ongole, at the time of obtaining a loan from the said bank. Therefore, the defendants are not in a position to produce the original documents and there are no wilful laches on their part in not filing the original documents and in filing the certified copies of the documents and in seeking leave of the Court to file the same.”

5. *Per contra*, the case of the plaintiffs, in brief, is as follows: - “The material allegations in the affidavit filed in support of the request of the defendants 4 and 5 are false. In the earlier the proceedings in O.S.No.124 of 2006 on the file of the I Additional Junior Civil Judge, Ongole, the Joint Sub-Registrar-I, Ongole had furnished information to the said Court by a letter dated 07.03.2007 that his search revealed that no sale deed dated 17.06.1959 was registered in his office. Thus, the said endorsement of the Sub-Registrar would show that there is no document dated 17.06.1959; therefore, the subsequent documents being relied upon by the defendants which are the off shoots of the earlier document are void and invalid and it is obvious that the said two registered sale deeds dated 15.02.2006 and 01.03.2006 are forged and fabricated and hence, the same cannot be received on file. Further, the defendants 4 and 5 had intentionally withheld the vital document, i.e., a Will Deed dated 12.09.1986 executed by Chinigepalli Andralamma and also a registered Relinquishment Deed dated 07.10.2005, which are relevant to the present *lis*. For suppression of the said vital documents and for coming to the Court with unclean hands, their defence is liable to be thrown out at any stage of the proceedings and hence, the petition is liable to be dismissed.”

6. At the hearing, the learned counsel for the plaintiffs would submit as follows:- “The Court below had failed to properly appreciate the facts and the legal position applicable to the facts of the case. Both the original sale deeds, the copies of which are being sought to be filed by the defendants 4 and 5, are forged and fabricated. The anterior document, which is the alleged

sale deed dated 17.06.1959, is itself a fabricated document. In the earlier proceedings in O.S.No.124 of 2006 on the file of the I Additional Junior Civil Judge, Ongole, the Joint Sub-Registrar-I, Ongole had furnished information to the said Court by a letter dated 07.03.2007 that his search revealed that no such sale deed dated 17.06.1959 was registered in his office. In view of the fact that the anterior document dated 17.06.1959 is itself a forged and fabricated document, the subsequent documents which are being relied upon by defendants 4 and 5 are invalid; the said documents are also forged and fabricated. The Court below, by erroneously observing that the 2nd respondent had not filed any counter and that the respondents 3 and 4 have stated in their counter that the documents sought to be received may be received subject to relevancy, had passed the impugned orders. In fact, counter is filed and the application is resisted. The defendants 4 and 5 and the other defendants had wilfully suppressed a Will Deed and a relinquishment deed, which are vital documents. Fraud is being played by the said defendants on the Court. In **S.P.Chengalvaraya Naidu (dead) by L.Rs Vs. Jagannath (dead) by L.Rs and others**^[1] the Supreme Court had held that a party who comes to the Court must come with clean hands and that a litigant, who approaches the Court without producing the vital documents and withholds a vital document in order to gain advantage on the other side, would be guilty of playing fraud on the Court as well as the opposite party and that in the said circumstances, the decree obtained by the said litigant by suppression of the vital documents would be vitiated by fraud. The trial Court in its orders had erroneously observed that it was being contended that the documents being sought to be filed are forged documents and that in view of the fact that the documents being filed are certified copies of registered documents, the documents can be received as the admissibility and relevancy cannot be looked into while considering an application filed to receive documents by condoning the delay. Therefore, the order impugned is liable to be set aside.”

7. On the other hand, the learned counsel for defendants 4 and 5, while

reiterating the pleaded case of the defendants and while supporting the order of the Court below, would submit as follows:- “The order of the Court below discloses that the 2nd respondent had not filed any counter. The respondents 3 and 4 had filed counter and had stated before the trial Court that the documents may be received subject to relevancy. The Court below was correct in holding that the probative value of the documents, which are being sought to be filed along with a petition for condonation of delay, need not be gone into at the stage of receiving the documents on file as at that stage the aspect of condonation of delay alone needs consideration. Since the documents are received on file subject to proof, admissibility and relevancy, no prejudice is caused to the plaintiffs. The order impugned is sustainable under facts and in law.”

8. I have bestowed my attention to the facts and I have given earnest consideration to the submissions.

9. At the outset, it is necessary to note that the defendants 4 and 5 had categorically stated at the earliest opportunity, i.e., at the time of enquiry into an interlocutory application filed for temporary injunction, that they had filed the photostat copies of the sale deeds and that the original sale deeds dated 15.02.2006 and 01.03.2006 are deposited with the State Bank of India, Ongole at the time of obtaining a loan from the said bank. In the said circumstances, the defendants 4 and 5, having obtained the certified copies of the said registered sale deeds, sought leave of the Court below to permit them to file the same. Whether or not the original sale deeds and the anterior sale deed of the year 1959 are forged and fabricated are questions to be gone into by the Court below after full-fledged trial. As already noted and as rightly observed by the Court below, at the stage of considering an application for receiving the documents on file after granting necessary leave, this Court need not go into the veracity and the probative value of the documents sought to be filed. Viewed thus, this Court finds that there are no tenable objections in the counter of the plaintiffs and that the Court below is justified in granting leave to the defendants for filing the documents. When

the Court below had exercised the discretion judiciously and had allowed the petition by recording satisfaction, this Court while exercising revisional jurisdiction will not generally interfere with such discretion. There is no patent illegality or jurisdictional error calling for interference. Having regard to the facts of the case and the aforesaid reasons, this Court finds that the plaintiffs could not make out any grounds much less valid grounds warranting interference with the orders of the Court below. Viewed thus, this Court finds that the Civil Revision Petition is devoid of merit and is liable to be dismissed.

10. In the result, the Civil Revision Petition is dismissed. However, it is made clear that since the documents are already received on file by the Court below subject to proof, admissibility and relevancy, the Court below shall consider the said aspects at an appropriate stage of the lis.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed.

M.Seetharama Murthi, J

04th July, 2016
Bvv

[\[1\]](#) AIR 1994 Supreme Court 853