

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition No. 1124 of 2016

Order:

The petitioners herein are the plaintiffs in OS No.23 of 1998 on the file of the Junior Civil Judge, Kodangal. The suit was filed for perpetual injunction to restrain the defendants from interfering with the peaceful possession and enjoyment of the plaintiffs in respect of the suit schedule dry land in an extent of Ac.12.12 gts., in Survey No.373, known as "Singamma Mamidla Chelka", situated at Kudurumalla village of Doulothabad Mandal. The said suit was decreed, by judgment and decree dated 31.08.2010, and the defendants 1, 2, 4 and 5 were restrained from interfering with the said property. Challenging the said judgment and decree, the defendants 2 and 4 preferred AS No.6 of 2010 before the learned Senior Civil Judge, at Narayanpet. When the said appeal was coming up for arguments, they filed IA No.576 of 2015 seeking permission to adduce additional evidence. The said application was allowed, by an order dated 12.11.2015. Challenging which, the present Civil Revision Petition is filed by the plaintiffs/respondents in the appeal.

2. Learned counsel for the revision petitioners submits that the learned Judge erred in allowing the application for additional evidence and marking the certified copies of the documents.

3. On the other hand, learned counsel for the respondents submits that the documents are certified copies and there cannot be any dispute with regard to nature of the documents. He also submits that they are relevant for the purpose of disposing of the appeal.

4. It is settled law that in the case of applications filed in pending appeals for receiving additional documents, the said applications should be considered along with the appeal and the appellate Court shall take into consideration the relevancy of the evidence sought to

be adduced by way of additional evidence and pass appropriate orders along with the appeal, but it cannot allow marking of the documents without hearing the appeal. Learned counsel for the respondents submits that he advanced his arguments in the appeal, but the respondents in the appeal did not advance their arguments.

5. In the circumstances, this Court is constrained to set aside the impugned order dated 12.11.2015, but directs the consideration of the application in IA No.576 of 2015 along with AS No.6 of 2010 by the learned Senior Civil Judge, Narayanpet, and pass appropriate orders in accordance with law on the application for receiving additional evidence after hearing the arguments of the respondents in the appeal. Since the learned counsel for the respondents herein submitted that the respondents in the appeal did not advance their arguments, liberty is given to the respondents in the appeal to submit their arguments on or before 30.06.2016.

6. The Civil Revision Petition is, accordingly, disposed of. However, in the circumstances, no costs.

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

A.
Date: 13.04.2016
Nsr

RAMALINGESWARA RAO, J