

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION Nos.2854, 2855 & 2862 of 2016

COMMON ORDER:

These three civil revision petitions are being disposed of by this common order as they involve same question of law.

2. The petitioners in CRP.Nos.2854, 2855 and 2862 of 2016 are plaintiffs in O.S.No.841, 839 and 836 of 2008 respectively on the file of the Court of III Additional Junior Civil Judge, Ongole (for short, trial Court). They filed aforesaid suits against the respondents herein for permanent injunction. The plaintiffs were examined as P.W.1 in the aforesaid suits and after closure of their evidence on 31.03.2016, the suits were posted to 19.04.2016 for defendants' evidence. The evidence of the petitioners was closed only on the ground that though they filed petitions seeking summoning the Surveyor and owners of the boundary lands, but were not pursuing the same and not adducing any evidence. After closure of the evidence on 31.03.2016, the petitioners herein filed I.A.Nos.135, 133 and 155 of 2016 in O.S.Nos.841, 839 and 836 of 2008 respectively on 03.04.2016 for reopening their evidence and for summoning the witnesses to give evidence. The trial Court dismissed the said applications, by separate orders dated 22.04.2016, with the following observations.

“2. Since the petitioner/plaintiff nor his counsel failed to represent before this Court on the day when case is called, this Court feels that allowing these kind of petitions will not sustain the confidence on the Court. It is becoming practice to the parties and counsel that deliberately absent for the Court and subsequent dates they come and represent the matter.”

Challenging the said orders, the present civil revision petitions are filed.

3. The trial Court should not have dismissed the applications of the petitioners on hypothetical grounds. The trial Court should have seen

that the evidence of the plaintiffs was closed on 31.03.2016 and the present applications were filed within three days. If the petitioners were not cooperating with the trial of the suits, the trial Court should have indicated the dates on which the plaintiffs have sought adjournments unnecessarily. Since the applications of the petitioners were dismissed on untenable grounds, the orders dated 22.04.2016 in I.A.Nos.135, 133 and 155 of 2016 are set aside and the matters are remanded back to the trial Court for consideration afresh in accordance with law.

4. Accordingly, the civil revision petitions are dismissed. No order as to costs. Miscellaneous Petitions, if any, pending in these civil revision petitions shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 22.07.2016

TJMR