

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

CIVIL REVISION PETITION NO.1646 OF 2016

DATED:07-04-2016

Between:

Pulibandla Koteswara Rao ... Petitioner

And

Miriyala Karim Bee
and others ... Respondents

COUNSEL FOR THE PETITIONER: Mr. P. Bhaskar

COUNSEL FOR THE RESPONDENTS: -

THE COURT MADE THE FOLLOWING:

ORDER:

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This civil revision petition arises out of order dt.1.3.2016 in I.A. No.148 of 2016 in O.S. No.256 of 2011, on the file of the Principal Junior Civil Judge, Sattenapalli.

I have heard the learned counsel for the petitioner and perused the record.

The petitioner filed the above-mentioned suit for specific performance of an agreement of sale. The trial was commenced five years after filing of the suit. As evidently the petitioner was not prepared to adduce further evidence, the same was closed on 14.7.2015. More than five months thereafter, the petitioner has filed the above-mentioned I.A. for reopening the evidence for the purpose of sending Ex.A.1, the agreement of sale, for opinion of an expert, as the respondents have denied execution of the agreement of sale. The lower Court has dismissed the said I.A., on the reasoning that the petitioner has not commenced the trial for nearly five years and has kept quiet for more than five months after closure of trial on 14.7.2015, despite having knowledge of the fact that the respondents have denied the execution of the suit agreement, and that as the thumb impressions, which are not clear, overlapped with each other, no useful purpose will be served if the document is sent to expert.

Though the latter part of the reasoning of the lower Court may not be very appealing, the fact remains that the petitioner was not diligent in seeking to send the document for expert's opinion. As rightly observed by the lower Court, since the petitioner had knowledge of denial of the execution by the respondents, there was no justification for his keeping quiet for several years without making a request for sending the suit document for expert's opinion. Even after conclusion

of the trial, the petitioner failed to apply to the Court for a period of five months. On these undisputed facts of the case, it cannot be said that the refusal of the lower Court to exercise discretion in favour of the petitioner is either erroneous or illegal.

Hence, I do not find any reason to interfere with the order of the lower Court. The civil revision petition is accordingly dismissed.

As a sequel to dismissal of the civil revision petition, C.R.P.M.P. No.2078 of 2016 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

07-4-2016

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