

HONOURABLE SRI JUSTICE P. NAVEEN RAO

CIVIL REVISION PETITION No.685 of 2016

Date :18.3.2016

Between :

P Sreerangaiah Setty died per LR No.2

Petitioner

And

Pabisetti Nagaraju gupta S/o Sreerangaiah Setty
Aged 54 yrs R/o Kadiri Balaji Street,
Anantapur

Respondents

The Court made the following:

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ORAL ORDER:

Heard learned counsel for petitioners and Sri R Prasad for sole respondent.

2. Petitioners are defendants in O S No. 23 of 2005 on the file of the Senior civil Judge, Kadiri. Suit was filed for grant of preliminary decree against defendants for partition and separate possession of 1/3rd share in the suit mentioned property by meets and bounds. Subsequently, the prayer is amended and plaintiff claimed ½ share in the suit schedule property.

3. It appears, evidence was closed in the year 2012. At that stage, petitioners herein filed I.A.No. 114 of 2012 to reopen the suit to lead further evidence. As the same was dismissed by order dated 22.6.2012, petitioner filed C.R.P No. 3399 of 2012.

4. This Court disposed of the said revision by order dated 30.7.2012. Having regard to the peculiar facts of the case, this Court granted one more opportunity to have the benefit of earlier order in I.A.No. 306 of 2009 for producing the admitted signatures of contemporaneous nature to be sent to the handwriting expert as required. A single opportunity was given and it was made clear that if the petitioner failed to avail such opportunity, the dismissal of the application in I.A.No. 114 of 2012 would hold good and trial Court should proceed further. Petitioners availed the said opportunity and evidence is closed. As contended by the learned counsel for respondents, the arguments were also concluded on behalf of the plaintiff and at this stage, this interlocutory application is filed praying to reopen the evidence to enable the petitioners to adduce further evidence. The said prayer is rejected.

5. Learned counsel for petitioner placed reliance on the decision of the Supreme Court in **K.K. VELUSAMY Vs. N. PALANISAMY**^[1]. Particularly, attention of this Court was drawn to the observations made by the Supreme Court in para 15. They read as under:

“15.....If there is abuse of the process of the court, or if interests of justice require the court to do something or take note of something, the discretion to do those things does not disappear merely because the arguments are heard, either fully or partly. The convention that no application should be entertained once the trial or hearing is concluded and the case is reserved for judgment is a sound rule, but not a straitjacket formula.....”

6. There is no doubt on proposition of law. The trial Court has got ample discretion to reopen the case even after the arguments are concluded in order to render complete justice. However, it depends on facts of each case. In the instant case, Court below noticed that petitioners were not diligent in prosecuting their remedies. Earlier, after evidence was closed, they sought to reopen the evidence on the pretext for referring the documents for expert opinion. At that stage also, though petitioners were conscious of the relevancy of leading evidence on the execution of the will, they kept quiet and allowed the proceedings to be concluded. After more than three years, this application was moved. No valid reasons were assigned to file such application belatedly. It is not the case of petitioners that they discovered some new evidence which was not within their knowledge or possession earlier. Thus, the petitioners are trying to drag on the issue for one reason or the other and they are not allowing the proceedings to be concluded. The Court below considered the same in right perspective. Therefore, I do not see any error in the decision arrived at by the Court below warranting interference of this Court.

7. Accordingly, the revision petition is dismissed. Having regard to the same, miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE: 18.3.2016
TVK

HONOURABLE SRI JUSTICE P. NAVEEN RAO

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[\[1\]](#) (2011) 11 SCC 275