

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION Nos.4637 and 4655 of 2016

COMMON ORDER:

1) C.R.P.No.4637 of 2016 is filed, aggrieved by the order dated 03.09.2016 passed in I.A.No.782 of 2016 in O.S.No.444 of 2012 on the file of the I Additional Junior Civil Judge, Tirupati, wherein an application filed under Order XVI Rules 1, 2 and 7 read with Section 151 of C.P.C. to summon the Tahsildar, Tirupati Rural Mandal was rejected. C.R.P.No. 4655 of 2016 is filed aggrieved by an order dated 03.09.2016 passed in I.A.No.783 of 2016 in O.S.No.444 of 2012 on the file of the I Additional Junior Civil Judge, Tirupati, wherein an application filed under Order XVI Rules 1, 2 and 7 read with Section 151 of C.P.C. to summon the Inam Deputy Tahsildar, Chittoor was rejected.

2) Since the issue involved in both the Civil Revision Petitions filed under Article 227 of the Constitution of India are interconnected, they are being disposed of by this common order.

3) For the sake of convenience, the parties hereinafter referred as arrayed in the suit.

4) The averments in the plaint would show that since two days prior to filing of the suit the defendants are attempting to interfere with the possession and enjoyment of the plaintiff and trying to cause damage to the trees and other plants without having any right over the suit schedule property. The averments in the plaint also refer to filing of O.S.No.125 of 2005 by the third defendant against TUDA and another by name V.Chandra Reddy for permanent injunction in respect of land admeasuring Ac.0.37 cents in Sy.No.102/2 which was dismissed on 07.09.2012 confirming the rights of the plaintiff.

5) Written statement came to be filed on behalf of defendant No.4 denying the allegations made in the plaint. After completion of the evidence of DWs.1 to 7 and when the suit was posted for further evidence, the present interlocutory applications came to be filed by the plaintiff. In the affidavit of defendant No.6 filed in support of the petition would show that though the survey numbers are rounded of (deleted) but still the revenue officials have issued 10 (1) and (3) in the name of defendant No.4 and the plaintiff. Hence seeks summoning of the revenue authorities.

6) Counter came to be filed by the plaintiff opposing the same. After considering the rival contentious issues raised

the trial Court rejected both the applications. Challenging the same the present Civil Revision Petitions are filed.

7) Reiterating the arguments that were advanced before the trial Court, the learned counsel for the petitioners submits that grave prejudice would be caused to the petitioners if the Tahsildar, Tirupati Rural and the Inams Deputy Tahsildar, Chittoor are not summoned to speak about the genuinity or otherwise of the documents.

8) Learned counsel for the respondents submits that already these documents are marked before the trial Court and no useful purpose would be served in summoning the officials after completion of the trial and when the case is posted for arguments.

9) It is to be noted that these two officers are to be summoned to produce the following documents respectively.

1. 1-B Form issued under ROR, 10 (1) account copy, No.3 adangal/ Pahani, F.M.B. pertaining to land to an extent of Ac.0.37 cents in Sy.No.102 and 103 of Nakkalavanka Village and land to an extent of Ac.0.46 cents in Sy.No.81/ 5
2. Chittoor District Gazettee pertaining to Tirupati Rural Mandal of No.14 Durgasamudram Village accounts.

10) In the written statement filed there is a reference to these documents which are now sought to be placed on

record to prove their possession. There is no specific denial in the written statement filed except a bare general denial of all the contents of the plaint. Apart from that the petitioners, who are defendant Nos.4 to 6 did not even cross examine PW.1. It was only defendant Nos.1 to 3, who cross examined PW.1 and other witnesses.

11) Defendant No.4 who filed the present applications along with others was examined as DW.5. In the chief affidavit he did not even say a word about the genuinity of the documents filed by the plaintiff except stating that there is no cause of action to file the suit and the alleged cause of action and the dates thereon are not true and correct. Similarly, even the witness, who was examined on behalf of defendant No.4 namely Venkata Ramana Reddy did not even speak specifically about the genuinity of these documents which are marked through the plaintiff. Likewise P.Mohan Kumar, who is none other than defendant No.6 and examined as DW.6, also did not anywhere refer to the genuinity or otherwise of the documents marked through the plaintiff which are subject matter of dispute. Apart from that it has been held by the trial Court that the documents which are now sought to be produced by the officials were already marked and no objection has been raised at the time of marking of those documents. Infact the plaintiff was not even cross examined

by defendant Nos.4 to 6 which could be gathered from the papers filed by the learned counsel for the petitioners. Hence, the finding of the trial Court warrants no interference.

12) Accordingly, both the Civil Revision Petitions are dismissed, giving liberty to the petitioners to avail the remedies, if any, available under law. There shall be no order as to costs.

13) As a sequel thereto, Miscellaneous Petitions pending if any, shall stand closed.



JUSTICE C. PRAVEEN KUMAR

25.11.2016
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