

HON'BLE SRI JUSTICE G. SHYAM PRASAD

CIVIL REVISION PETITION Nos.1888, 2027 AND 2220 OF 2016

COMMON ORDER:

1. These three Civil Revision Petitions, under Article 227 of the Constitution of India, arose out of the common order, dated 16.03.2016, passed in I.A. No.926, I.A. No.927 and I.A. No.928 of 2015 in Original Suit No.61 of 2008, on the file of the Senior Civil Judge, Bobbili, Vizianagaram District (for short, 'the trial Court'); wherein the trial Court dismissed all the three petitions, filed under Order XVIII Rule 17 of C.P.C., for recalling PW.1, reopening the evidence and for receiving the settlement fair adangal, on various grounds *inter-alia* that the petitions were filed at a belated stage of the trial.

2. The revision petitioners herein are the petitioners in I.A. Nos.926, 927 and 928 of 2015 and plaintiffs in Original Suit No.61 of 2008 and the respondents herein are the respondents in I.A. Nos.926, 927 and 928 of 2015 and defendants in Original Suit No.61 of 2008, before the trial Court.

3. The petitioners herein filed O.S. No.61 of 2008 against the respondents before the trial Court for declaration of title and consequential relief of permanent injunction. While the suit was coming up for arguments, the petitioners filed these three petitions for the above reliefs and they were dismissed on merits.

4. The petitioners originally filed these petitions to mark the certified copy of settlement fair adangal of the plaint schedule property, obtained under the Right to Information Act, 2005 (for short, 'the Act of 2005') from the Survey and Settlement Department but that relief was rejected by trial Court. Being aggrieved by the order of the trial Court, these three Civil Revision Petitions are preferred.

5. Learned counsel for the petitioners submits that the document sought to be marked is very much essential to prove their case of declaration of title and consequential relief of permanent injunction as the same was subsequently obtained under the Act of 2005 and it is an authentic document.

6. During the course of arguments, the learned counsel appearing for the respondent Nos.1, 3, 7 and 8 contended, that the petitioners have already filed a similar document, allegedly a copy of the "Karanamgari Adangal" (Settlement Fair Adangal), dated 21.06.2007, issued in respect of the land in Survey No.115/4 including the suit land and, therefore, no purpose would be served if the said document is received again and marked in the evidence of PW.1.

7. Now, the point that arises for consideration in these Civil Revision Petitions is:

Whether the petitioners are entitled to mark the document before the trial

Court and, consequently, entitled for the other reliefs?

8. **POINT:** The trial Court, having considered the respective arguments of both the counsel before it, dismissed the three petitions mainly on the ground that though the settlement fair adangal was existing at the time of examination of PW.1, but they did not file the same along with the plaint and, as per the amended provisions of C.P.C., all the documents have to be filed along with the plaint and that, in case, if the parties want to file any document later, they have to explain why they could not file the said document earlier at the time of filing of the suit. It is further observed that the petitioners have simply stated they recently obtained the said document under the Act of 2005 and, therefore, they intend to get it marked and except that they did not state anything.

9. In fact, it is further observed that the evidence on behalf of the petitioners and respondents was closed on 04.11.2015, while the Suit was coming up for arguments, those petitions have been filed as such they are not entitled to file the document at that stage.

10. No doubt, the petitioners ought to have filed the said document along with the plaint, when they produced all other relevant documents, but the document filed was obtained under the Act of 2005 and no prejudice would be caused to the respondents if the said document is admitted in evidence. Since the petitioners-plaintiffs are coming forward to mark the document, which was not with them at the time of filing the suit, the ends of justice would be met if the document is admitted in evidence.

11. In view of the facts and circumstances, I do not see any valid grounds to reject these Petitions and, therefore, I am unable to concur with the findings recorded by the trial Court in dismissing those petitions.

12. Accordingly, all these Civil Revision Petitions are allowed setting-aside the impugned order, dated 16.03.2016, passed by the trial Court. Further, the trial Court is directed to reopen the evidence, recall PW.1 and receive the document in his evidence, as expeditiously as possible. No order as to costs.

13. In consequence, miscellaneous petitions, if any, pending in these Revisions shall stand closed as infructuous.

G. SHYAM PRASAD, J

Date: 05-08-2016.
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