

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION Nos.5519, 5523 and 5556 OF 2016

COMMON ORDER:

Since all these revisions are arising out of one civil suit, they are taken up together, heard and being disposed of by this common order.

CRP No.5519 of 2016 is preferred against the order dated 19.09.2016 passed in I.A.No.732 of 2016 in O.S.No.29 of 2013 by the II Additional Junior Civil Judge, Chittoor, whereby the application filed by the revision petitioner to recall him for the purpose of marking the certified copy of the Commissioner's report in CMA No.21 of 2013 on the file of I Additional District Judge's Court, Chittoor, was dismissed.

CRP No.5523 of 2016 is preferred against the order dated 19.09.2016 passed in I.A.No.583 of 2016 in O.S.No.29 of 2013 by the II Additional Junior Civil Judge, Chittoor, whereby the application filed by the revision petitioner to re-open the suit for the purpose of adducing further evidence on his behalf, was dismissed.

CRP No.5556 of 2016 is preferred against the order dated 19.09.2016 passed in I.A.No.720 of 2016 in O.S.No.29 of 2013 by the II Additional Junior Civil Judge, Chittoor, whereby the application filed by the revision petitioner to permit him to file Commissioner's report in CMA No.21 of 2013 on the file of I Additional District Judge's Court, Chittoor, was dismissed.

Heard the learned counsel for the petitioner.

In spite of service of notice on respondents 1 and 2, there is no representation on their behalf. Notice sent to R.3 returned 'unclaimed'.

Perused the entire material on record.

As seen from the record, CMA No.21 of 2013 was filed by the 3rd respondent-2nd defendant against one K.Sankar Reddy, who is the father of the revision petitioner herein. The only ground on which the requests of the petitioner were disallowed by the Court below was that the petitioner failed to show sufficient cause for the delay in filing the said document.

Learned counsel for the petitioner submits that the revision petitioner is not a party to the proceedings in CMA No.21 of 2013 and on coming to know about the said proceedings, he approached the Court below. Hence, there was a delay of two years in filing the interlocutory applications.

O.S.No.29 of 2013 is filed for grant permanent injunction and when the suit was posted for cross-examination of DW-4, revision petitioner, who is the 1st defendant, filed the present applications for marking of Commissioner's report in CMA No.21 of 2013 and for that purpose he sought for re-open and recall his evidence. In the affidavit filed in support of I.A.No.720 of 2016, the revision petitioner has clearly asserted that the property involved in O.S.No.29 of 2013 and CMA No.21 of 2013 is one and same.

The material on record further reveals that on 03.08.2016, the Court below allowed the application filed by the petitioner in I.A.No.583 of 2016 to re-open the matter for adducing further evidence, but however, subsequently in view of dismissal of I.A.Nos.720 and 732 of 2016, the Court below dismissed

I.A.No.583 of 2016 on 19.09.2016. The learned Judge ought to have allowed the request of the petitioner instead of dismissing the petitions on the ground of delay on technical grounds.

Having regard to the above discussion, the orders passed in I.A.Nos.732, 583 and 720 of 2016 in O.S.No.29 of 2013 on the file of II Additional Junior Civil Judge, Chittoor, are hereby set aside and the Civil Revision Petitions are allowed, provided the arguments in O.S.No.29 of 2013 have not yet commenced till date.

Miscellaneous petitions pending in these revisions, if any, shall stand closed. No order as to costs.

Date: 09.12.2016
sur

C. PRAVEEN KUMAR, J

