

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No.2532 of 2015

ORDER:

The petitioner herein is the defendant in O.S. No.19/2007 on the file of the learned Additional District Judge, Hindupur, Anantapur District. The respondents herein filed the said suit for declaration of title in respect of the plaint schedule properties situated in Gudipalli polam in Anantapur District. In the said suit, the petitioner filed I.A. No.36/2008 seeking rejection of the plaint and the respondents herein filed their counter. The said application of petitioner was dismissed on 06.04.2015 by a detailed order. Challenging the same, the present Civil Revision Petition was filed.

The brief case of the plaintiffs is that the owner of plaint schedule properties, Sri Jethalal Haridas Joisher, felt it difficult to maintain the business and to look after the estate by himself and in those circumstances, four partners of 'Banushali Sisal Fiber Industry and Plantation', executed a General Power of Attorney (for short, 'the G.P.A.')

on 29.07.1989 appointing three persons as agents and as G.P.A. holders. One of them is distantly related to the family of plaintiffs and the other two agents belong to the caste of the plaintiffs. The plaintiffs never intended to convey the properties in favour of the agents and their duties are confined to the terms of the G.P.A. given to them. The sole defendant, who is one of the Power of Attorney holders, in collusion with the other two agents started mismanaging the affairs and in those circumstances, plaintiff No.1 cancelled the G.P.A. When the agents did not stop their illegal activities, the plaintiffs filed O.S.No.7/1996 on the file of the learned Senior Civil Judge, Penukonda, for permanent injunction and the said suit was dismissed. An appeal in A.S.No.1/2003 also failed. The second appeal in S.A.No.822/2006 was also dismissed by this Court

on 20.11.2006 with an observation that if the appellants felt that the possession of the respondents was illegal, they were at liberty to file a suit for recovery of possession of the suit property from the respondents, if they were so advised. After dismissal of the said Second Appeal in the year 2006, the present O.S.No.19/2007 is filed for declaration of title.

The defendant filed I.A. No.36/2008 in the said suit for rejecting the plaint on the ground that the suit is not maintainable in view of the concurrent findings recorded in O.S.No.7/1996 and A.S.No.1/2003. It was also stated that the suit is barred by time as it was filed after a lapse of 16 years 10 months and 4 days from 27.02.1991 i.e., the date on which the defendant came into possession of the suit schedule property. It was also stated that the plaint does not show any cause of action.

The plaintiffs filed counter stating that what was decided in O.S. No.7/1996 was only with regard to the administration and management of the factory and it had nothing to do with the possession of the suit schedule property. In fact, the lessees and representatives of the plaintiffs have been cultivating the plaint schedule properties by raising crops even now and the present defendant never objected to the same. It was further stated that the defendant filed O.S.No.150/1999 on the file of the learned Junior Civil Judge, Penukonda, seeking injunction and the said suit is pending. The revenue records are also in the name of the plaintiffs only and the plea set up by the defendant on the ground of adverse possession is not available to him.

On the basis of the above pleadings, the trial Court elaborately dealt with each ground raised and negated the contentions raised by the defendant in his application in I.A.No.36/2008. The order of trial Court is elaborate and well reasoned. In view of the same, this Court is not inclined to interfere with the order in I.A. No.36/2008, dated

06.04.2015.

Accordingly, this Civil Revision Petition is dismissed. No order as to costs.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

A.RAMALINGESWARA RAO, J

19.01.2016

MVA