

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION Nos.4532, 4569 AND 4611 OF 2016

COMMON ORDER:

Heard Sri Vijaya Kumar Kondapally, learned counsel for the revision petitioners, and Sri T. Sridhar, learned counsel for respondent No.2 in these three Civil Revision Petitions. Service on respondent No.1 in these petitions was not completed, but the fact is that respondent No.1 is the predecessor in title of respondent No.2, even on the date when the plaint was presented by the revision petitioners, which was numbered as O.S. No.210 of 2010 on the file of the Principal Senior Civil Judge, Mancherial, Adilabad District (for short, 'the Court below').

2. C.R.P. No.4569 of 2016 arises out of the order dated 16.08.2016 in I.A. No.348 of 2016 in O.S. No.210 of 2010 dismissing the I.A., filed under Section 151 of the Code of Civil Procedure, 1908 (for short, 'CPC'), requesting to reopen the evidence on behalf of the petitioners-plaintiffs for the purpose of marking the mutation proceedings, dated 21.02.2009, of the Tahsildar, Mancherial, concerning an extent of 999 square yards comprised of Sy.No.416/27, situated at Mancherial village.

3. C.R.P. No.4532 of 2016 is filed challenging the order dated 16.08.2016 in I.A. No.349 of 2016 in O.S. No.210 of 2010, which is a consequential dismissal order passed by the Court below

consequent upon the order in I.A. No.348 of 2016 in O.S. No.210 of 2010. The said I.A. No.349 of 2016 was filed under Order VII Rule 14(3) read with Section 151 CPC, seeking the leave of the Court below to receive the document referred to above.

4. C.R.P. No.4611 of 2016 is directed against the order dated 16.08.2016 in I.A. No.350 of 2016 in O.S. No.210 of 2010, which is also a consequential order dismissing the application filed under Order XVIII Rule 17 read with Section 151 CPC, requesting to recall P.W.1 for the purpose of marking the aforesaid document.

5. The Court below referred to the nature of the document that was sought to be introduced in the evidence and also the relief sought for by the petitioners-plaintiffs in the main suit and while referring to the suit proceedings that transpired from the date of examination of P.W.1 and his cross-examination that took place on 30.11.2012, till the suit came up for arguments on 20.09.2015, on the ground that, though, several opportunities were afforded earlier thereto and when the matter was adjourned from time to time for arguments, the said three interlocutory applications were filed, at a belated stage. So, on that ground, I.A. No.348 of 2016 was dismissed, as the Court below did not incline to reopen the case, having recorded the finding that there were no grounds for reopening the evidence on behalf of the petitioners-plaintiffs for marking the said document. The Court below also dismissed the other two interlocutory applications, i.e., I.A. Nos.349 and 350 of 2016, consequent upon the

dismissal order passed in I.A. No.348 of 2016. Hence, the present Civil Revision Petitions.

6. Learned counsel for the revision petitioners would contend that the mutation proceedings were filed in another suit, i.e., O.S. No.211 of 2010 on the file of the very same Court, where the subject matter was concerned with the Sy.No.416/27. It is his submission that the learned counsel representing the petitioners-plaintiffs before the Court below was also the counsel for the plaintiff in O.S. No.211 of 2010 and when the said proceedings were brought by the plaintiffs and handed over to the learned counsel, then only the plaintiff-revision petitioner came to know that there is sub-division of Sy.No.416 and, thus, this circumstance would defeat the stand taken by respondent No.2-defendant No.2 that Sy.No.416 was not subdivided, at all.

7. Learned counsel for respondent No.2-defendant No.2 would submit that, in fact, the mutation proceedings would not relate to the subject matter and there has no relevancy so far as the controversy that is sought to be adjudicated upon in O.S. No.210 of 2010.

8. Learned counsel for the revision petitioners-plaintiffs, no doubt, would contend that the order challenged in C.R.P. No.4569 of 2016 reflects that only on the ground that the matter being adjourned from time to time for arguments, the Court below dismissed the said

application on the assumption that the petitioners-plaintiffs were protracting the litigation. He would further submit that in view of certain other contingencies, such as the boycott of Courts by the advocates in that area, were not taken note of by the Court below and even otherwise, the orders do not reflect that the Court below has applied its mind in proper perspective so far as the relevancy of the document is concerned.

9. It is no doubt true, that the order in the first interlocutory application would reflect that, on the ground that though sufficient opportunity was provided to the petitioners-plaintiffs, they did not avail of the same and when the suit was posted for arguments, the said three applications were filed, at a belated stage. But still, if intrinsically examined, the order clearly indicates that the Court below held that there were no grounds for reopening the evidence of petitioners-plaintiffs for marking the documents. That itself would reflect that the Court below is right in not accepting the mutation proceedings sought to be received.

10. It is the case of the revision petitioners that the mutation proceedings dated 21.02.2009 relate to Sy.No.416/27 and the name of the new pattedar is shown as Sri Thota Srinivas, who is no other than the plaintiff in O.S. No.211 of 2010 on the file of the very same Court. When asked, learned counsel for the revision petitioners would submit that the extent of that sub-division number is not known. However, as could be gathered from vertical column No.5 of the said document, it

is clear that it relates to the land covering 999 square yards. When the subject matter of property in O.S. No.210 of 2010 is altogether different and has not at all concerned with the subject matter of property in O.S. No.211 of 2010, certainly, the document now sought to be received by the Court below cannot be construed as relevant. Therefore, there is no infirmity in the orders passed by the Court below.

11. Accordingly, all these three Civil Revision Petitions are dismissed. There shall be no order as to costs.

12. As a sequel thereto, miscellaneous applications, if any pending in these civil revision petitions, shall stand closed.

4th November, 2016

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A. SHANKAR NARAYANA, J

