

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No.3954 of 2016

ORDER:

Petitioners are the plaintiffs in O.S.No.258 of 2011 on the file of VI Additional District & Sessions Judge, Markapur. The suit was filed for the relief of specific performance of agreement of sale, dated 17.09.2007. They filed I.A.No.439 of 2012 under Order 11 Rules 12 and 14 CPC to direct respondent No.1-defendant No.1 to cause production of original agreement of sale, dated 17.09.2007, executed by respondent Nos.5 and 6-defendant Nos.5 and 6 in favour of petitioners herein and respondent Nos. 1 and 2-defendant Nos.1 and 2. The trial Court dismissed the said application by a reasoned order, dated 18.10.2012. Thereafter, the petitioners filed I.A.No.572 of 2012 for issuance of summons to respondent No.1-defendant No.1 to cause production of the original agreement of sale and consent letter receipt, dated 17.09.2007. The said application was filed on 29.10.2012 and when it was, ultimately, re-presented on 16.11.2012, an endorsement was made on 19.11.2012 to the effect that "call at Bench" on 21.11.2012. On 21.11.2012, it was posted to 14.12.2012 for objections of the respondents and on 14.12.2012, since no objections were filed, the petition was closed. Thereafter, the petitioners filed present I.A.No.297 of 2016 seeking to reopen I.A.No.572 of 2012 on the ground that there were no willful and intentional laches on their part.

A counter was filed stating that the petitioners are in the habit of filing petitions after petitions with dilatory tactics to drag on the matter. It was stated that the respondents-defendants had taken a specific plea in the written statement in para 16 that the original agreement of sale dated 17.09.2007, was not filed along with the plaint and xerox copy was filed and no explanation was given why xerox copy was filed in spite of knowing that it was not admissible in evidence for specific performance of contract. When the petitioners filed I.A.No.443 of 2012, the same was dismissed by the trial Court observing that the agreement of sale was not in the custody of the respondents and advised the petitioners to give notice under Order 12 Rule 8 CPC. It was also stated that the petitioners sent a notice to the party directly and after hearing the oral arguments, I.A.No.572 of 2012 was closed on 14.12.2012. It was the case of the respondents that the trial Court was satisfied that the agreement was not with them.

The trial Court by its order, dated 20.07.2016, dismissed I.A.No.297 of 2016 observing that issues were framed in the suit on 15.11.2012 and the suit was posted for trial to 14.12.2012 and after posting the matter for trial, the petitioners were not ready and took adjournments till 03.04.2013. By further observing that the petitions filed by the petitioners *vide* I.A.Nos.19 and 20 of 2014, were also dismissed, and when the case was posted for trial, the present application was filed on 10.06.2016 i.e. after five years of closure of

I.A.No.572 of 2012, the trial Court opined that the reasons given in the application seeking reopening of I.A.No.572 of 2012 were not convincing.

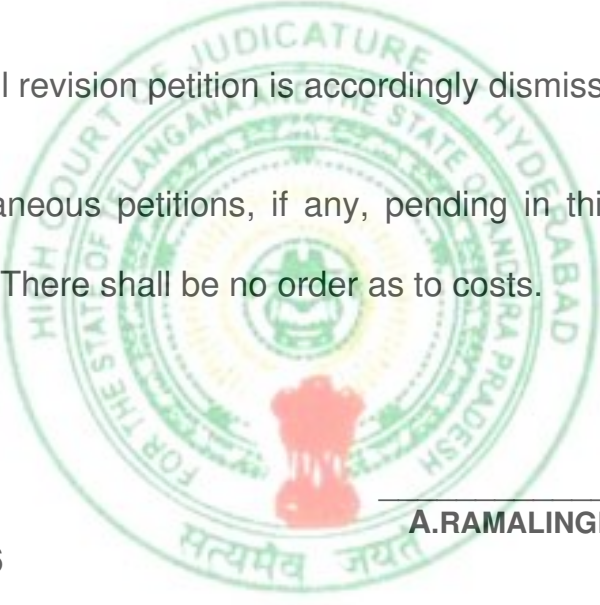
I have carefully perused the affidavit filed in support of I.A.No.297 of 2016 seeking reopening of I.A.No.572 of 2012. This Court finds no reason for the petitioners to come to the Court after long lapse of five years. The trial Court correctly exercised its discretion in the facts and circumstances of the case and this Court sees no reason to interfere with the order under revision.

The civil revision petition is accordingly dismissed.

Miscellaneous petitions, if any, pending in this revision shall stand closed. There shall be no order as to costs.

Dt:23.12.2016

kdl

**A.RAMALINGESWARA RAO,J**