

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.3253 OF 2016

ORDER:

1 This Civil Revision Petition, under Article 227 of the Constitution of India, is filed challenging the order dated 01.04.2016 passed in I.A.No.479 of 2016 in O.S.No.204 of 2007 on the file of the Court of the Principal Junior Civil Judge, Sangareddy.

2 For the sake of convenience, the parties to this petition will hereinafter be referred to as they are arrayed before the trail Court.

3 The contention of the learned counsel for the petitioners (defendant Nos.9 to 12) is two fold. 1) The trail Court failed to consider that even if the documents are received, no prejudice will be caused to the respondents/plaintiffs, and 2) the trail Court dismissed the petition basing on technicalities without considering the relevancy of the documents.

4 Per contra, the learned counsel for the plaintiffs submitted that there are no grounds, much less valid grounds to interfere with the order impugned in this revision petition.

5 The facts leading to filing of the present revision petition are as follows:

6 The respondent Nos.1 to 10 (plaintiffs) filed the suit O.S.No.204 of 2007 on the file of the Principal Junior Civil Judge, Sangareddy against the defendants for perpetual injunction in respect of an extent of Ac.1-04 guntas of land in Sy.Nos.886/E.1, E.2 and E.3 and 885/E.1, E.2 and E.3. The defendants filed written statement *inter alia* contending that the respondent Nos.1 to 10 (plaintiffs) were never in possession of the suit schedule property, therefore, the suit is liable to be dismissed. The contention of the petitioners (defendant Nos.9 to 12) is that they have been in possession and enjoyment of

an extent of six guntas of vacant site. The plaintiffs' side evidence was closed long back. The evidence of D.1 to D.5 was also closed. Now the suit is coming up for the evidence of petitioners. At that point of time, the petitioners (defendant Nos.9 to 12) filed I.A.No.479 of 2016 under Order VIII Rule 1-A CPC to receive 81 documents. After hearing both sides, the trial Court dismissed the petition. Hence the present revision petition.

7 The point for consideration in this revision petition is 'whether the trial Court committed any irregularity while dismissing the petition filed by the petitioners (defendant Nos.9 to 12)?'

8 The petitioners (defendant Nos.9 to 12) filed written statement. The documents consist of certified copies of plaint and docket orders in O.S.No.92 of 2015 and 93 of 2015. There is no mention about these documents in their written statement. The petitioners (defendant Nos.9 to 12) have not assigned reasons much less cogent and convincing reasons for non-filing of these documents for all these days. The petitioners (defendant Nos.9 to 12) simply filed the petition requesting the Court to receive the same.

9 At this juncture, the learned counsel for the petitioners (defendant Nos.9 to 12) has drawn my attention to the ratio laid down

in ***Lukka Srinivasa Rao @ Venkateswarlu vs. Lukka Sivaiah***^[1]

wherein this Court held at Para No.8 as follows:

8. Applying these settled legal principles to the present case, it is no doubt true that, as per the law that could be culled out from the precedents, the party who wants to produce the documents at a later stage of the suit proceedings, must satisfy the Court with convincing reasons that he was prevented by sufficient cause from producing the same earlier. However, in cases where such explanation is not effectively put forth and if the Court is convinced that the documents which are sought to be produced are essential for proper and effectual adjudication of the dispute and production of such documents at a belated stage would not prejudice the adversary party, it must overlook the failure of the party in putting forth convincing reasons.

10 As per the principle enunciated in the case cited supra, if the

documents are so relevant for disposal of the main suit, the court can receive the documents.

11 Let me consider the facts of the case on hand in the light of the above legal principle.

12 The case of the petitioners (defendant Nos.9 to 12) is that they have been in possession and enjoyment of a single plot which is an extent of Ac.0-06 guntas. The respondent Nos.1 to 10 (plaintiffs) have to establish that they have been in possession and enjoyment of the suit schedule property, much less as on the date of filing of the suit in order to seek the relief of perpetual injunction. In the instant case, the burden of proof lies on the respondent Nos.1 to 10 (plaintiffs) to establish that they have been in possession and enjoyment of an extent of Ac.2-04 guntas of land in Sy.Nos.886/E.1, E.2 and E.3 and 885/E.1, E.2 and E.3. Unless and until the respondent Nos.1 to 10 (plaintiffs) establish their possession and enjoyment over the suit schedule property, they are not entitled to seek the relief of perpetual injunction. It is not in dispute that the petitioners herein (Defendant Nos.9 to 12) and the respondent Nos.1 to 10 (Plaintiffs) are not parties to O.S.No.92 of 2015 and 93 of 2015.

If the Court feels that it cannot adjudicate the matter effectively without considering the proposed documents, then the Court can receive the documents. The very purpose of receiving the documents is that those documents may throw some light on the controversy. In the instant case even if the documents are received, the same may not be helpful to the case of the petitioners (Defendant Nos.9 to 12). On the other hand, even if the petition is dismissed, no prejudice will be caused to them. The petitioners (Defendant Nos.9 to 12) failed to assign reasons much less cogent and valid reasons how these documents are relevant to decide the issue involved in the suit. Even if these documents are received, they are no way helpful to the

petitioners (Defendant Nos.9 to 12) to establish that they are in possession of Ac.0.06 guntas of land. As per the principle laid down in Lukka Srinivas Rao case (supra) if the documents are so relevant for adjudication of the main suit once for all, then the Court can receive the documents. In the instant case, the Court can decide whether the respondent Nos.1 to 10 (plaintiffs) are in possession of the suit schedule property much less as on the date of filing of the suit or not even without taking into consideration these documents. Therefore, the decision, relied upon by the learned counsel for the petitioners (Defendant Nos.9 to 12), is not applicable to the facts of the case on hand. The trial Court has assigned reasons much less cogent and valid reasons for dismissing the petition. The findings recorded by the trial Court are supported by material much less legally admissible material. Taking the facts and circumstances of the case, I am of the considered view that the order under revision does neither suffer from any fundamental infirmity nor any jurisdictional error, which warrants interference of this Court under Article 227 of the Constitution of India.

13 For the above discussion, this Civil Revision Petition lacks merits and is accordingly dismissed as devoid of any merit. However, the trial Court is hereby directed to dispose of the main suit in accordance with law, without being influenced by any of the observations made in this revision petition. Consequently, miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand closed.

T. SUNIL CHOWDARY, J

Date: 15th July, 2016

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