

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI
CIVIL REVISION PETITION Nos.3730 & 4239 of 2015

COMMON ORDER:

These two Civil Revision Petitions, under Article 227 of the Constitution of India, are filed by the unsuccessful plaintiffs assailing the orders dated 17.03.2015 of the learned Junior Civil Judge, Jangareddigudem, passed in I.A.No.386 of 2014 and I.A.No.352 of 2014 in the suit O.S.No.197 of 2009 filed by the deceased first plaintiff for perpetual injunction.

2. I have heard the submissions of the learned counsel for the revision petitioners/plaintiffs ('the plaintiffs', for brevity) and the learned counsel for the 2nd respondent/2nd defendant ('the defendant', for brevity). I have perused the material record.

3. The facts stated at the hearing, in brief, are as follows:-

After the death of the first plaintiff, the plaintiffs 2 to 5 were brought on record in the year 2010. When the suit was at the stage of arguments, the said plaintiffs filed the aforementioned two interlocutory applications to reopen the matter and to receive the documents, namely, (i) Rough patta No.173 which was issued by the MRO, Jangareddigudem; (ii) Jangareddigudem village fair Adangal copy issued by the MRO, Jangareddigudem; (iii) Jangareddigudem village settlement fair Adangal issued by the MRO, Jangareddigudem; and (iv) Certified copy of the judgment in O.S.No.164 of 1997, for the purpose of marking the same through the witness to be examined as PW5. These petitions were resisted by the defendant. On merits, the trial Court had dismissed the interlocutory application in I.A.No.386 of 2014 by a docket order dated 17.03.2015. As a sequel to the dismissal of I.A.No.386 of 2014, the trial Court had dismissed I.A.No.352 of 2014 without passing a detailed order in the said application.

4. The case of the revision petitioners is that the present petitioners, who are the plaintiffs, were impleaded on the death of the first plaintiff/sole plaintiff and that after the evidence was closed and the matter was posted for arguments, the evidence on the side of the defendants was reopened and further evidence was adduced on the side of the defendants in the year 2014 and that while the things stood thus, the documents which are now being sought to be filed are traced and that the said documents are public documents and are very important to support the case of the plaintiffs and are essential to adjudicate the *lis* and that in view of the said facts, it has become necessary for the plaintiffs to file the present two interlocutory applications.

5. The said two applications were resisted by the defendant *inter alia* contending that several times the matter was reopened at the instance of the plaintiffs and that the plaintiffs had earlier filed applications to reopen the matter and to summon and examine the Tahsildar concerned as a Court witness and that the plaintiffs had later filed two applications in I.A.Nos.401 and 402 of 2012 for reopening the evidence for the purpose of adducing further evidence and that all those applications were dismissed earlier by the trial Court and that the present attempt is only to cover up the laches and delay the disposal of the suit to enjoy the temporary injunction which was granted in respect of the 'A' schedule property.

6. The learned counsel for the parties made submissions in line with their respective pleadings. I have perused the material record and gave detailed and thoughtful consideration to the submissions noted supra.

7. A perusal of the earlier orders of the trial Court dated 04.02.2013 passed in I.A.Nos.401 and 402 of 2012 in O.S.No.197 of 2009 would disclose that the said petitions are filed by the plaintiffs to reopen the evidence to adduce further evidence. I.A.No.2838 of 2008, which was also dismissed by the trial Court by order dated 12.11.2008, was filed by the plaintiffs under Order XVI rule 14 of the Code of Civil Procedure,

1908 for issuance of notice to the Tahsildar, Jangareddigudem to produce the revenue records. Therefore, in the well considered view of this Court, the requests in the said earlier applications were made in a different context and for different purposes and that the said requests have nothing to do with the present requests made in the present applications. A perusal of the documents which are now being sought to be filed by the plaintiffs would show that the same are (i) Rough patta No.173 which was issued by the MRO, Jangareddygudem; (ii) Jangareddigudem village fair Adangal copy issued by the MRO, Jangareddigudem; (iii) Jangareddigudem village settlement fair Adangal issued by the MRO, Jangareddigudem; and (iv) Certified copy of the judgment in O.S.No.164 of 1997. All the said documents, being public documents, the authenticity of the same need not be doubted at this stage is the submission on behalf of the plaintiffs; however the plaintiffs also submit that the documents are required to be marked and proved in accordance with the procedure established by law. When the matter is before the trial Court and when the evidence of the defendant was recently reopened and further evidence was permitted to be adduced by the defendant in the year 2014, this Court is of the well considered view that if an opportunity is given to the plaintiffs by permitting them to adduce further documentary evidence through PW5-who is proposed to be examined as a witness, by reopening the evidence, the ends of justice would be met; and such a course would also sub-serve the ends of justice.

8. Viewed thus, this Court finds that the observations of the trial Court that since the earlier applications filed by the plaintiffs were dismissed; the present applications are also liable for dismissal does not stand the test of scrutiny. Accordingly, this Court finds that there is acceptable merit for allowing both these revision petitions.

9. Accordingly, both the Civil Revision Petitions are allowed by setting aside the orders impugned therein and the trial Court is directed to permit

the plaintiffs to examine the 2nd plaintiff as PW5 and adduce further documentary evidence which is now permitted to be adduced. It is made clear that the documents are received subject to proof, admissibility and relevancy. However, the plaintiffs shall complete the adduction of evidence, as now permitted, within fifteen (15) days from the date of receipt of a copy of this order. It is needless to mention that since the suit (renumbered as O.S.No.197 of 2009) is of the year 2000, the trial Court shall make an endeavour to dispose of the suit as expeditiously as possible, preferably not later than one (01) month after the 15 days time now granted for adduction of further evidence on the side of the plaintiffs.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in both these Civil Revision Petitions, shall stand closed.

M.Seetharama Murti, J

16th February, 2016
Bvv