

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION Nos.4074 AND 4079 OF 2016

COMMON ORDER:

Since both the Civil Revision Petitions arise out of the same suit, they are disposed of by way of this common order.

2. Civil Revision Petition Nos.4074 and 4079 of 2016 are filed by the petitioner challenging the Orders dated 15.07.2016 passed in Interlocutory Application Nos.459 and 461 of 2016 in Original Suit No.207 of 2010 by the II Additional Junior Civil Judge, Chittoor, respectively.

3. The revision petitioner herein is the plaintiff and the respondents herein are the defendants in the above mentioned Original Suit. The petitioner filed I.A.No.461 of 2016 in O.S.No.207 of 2010 to re-open the matter to summon the concerned Tahsildar to produce revenue record pertaining to the schedule property prior to 1960 to fill the date of filing of the order. He also filed I.A.No.459 of 2016 in O.S.No.207 of 2010 to summon the witness to cause production of documents and to give evidence basing on the records. The trial Court after considering the material available on record, dismissed both the petitions with costs. Challenging the same the present revisions are filed.

4. The petitioner filed the above suit for declaration of his right over the schedule land and for recovery of possession. After closure of the evidence, the said suit was posted for arguments to 01.03.2016. The plaintiff without arguing the case, got filed I.A.Nos.186, 188 and 189 of 2016 to re-open, recall and receive documents respectively.

The Court below after full-pledged enquiry dismissed the said petitions on 27.04.2016 on merits. Subsequently also, the petitioner did not argue the case, but took adjournments on one pretext or the other. Since the petitioner could not advance the arguments, learned counsel for the defendants advanced his arguments on 06.06.2016 and posted the matter to 08.06.2016 for petitioner's arguments and thereafter, it was adjourned to 13.06.2016. At that juncture, the petitioner filed the present petitions.

5. Learned counsel for the petitioner submits that suggestions made by the learned counsel for the respondents that the revenue records filed by the petitioner are created for the purpose of this case, will affect his case and hence seeks summoning of revenue records.

6. It is to be noted that in spite of giving number of opportunities, the petitioner neither produced any document nor advanced his arguments. The observation of the Court below while dismissing the petitions is as under:

“The petitioner could have taken the revenue records from the concerned authorities and produced in his support earlier when he was given opportunity but the petitioner did not choose to do so merely because it is suggested by the learned counsel for the respondent that the revenue records filed by the petitioner are created for the purpose of this case, it cannot be said that the petitioner is entitled to seek the relief at this juncture.”

7. Though the suggestion by the respondents herein that the revenue records filed by the petitioner are created for the purpose of this case was made in the month of October, 2015 no steps were taken

by the petitioner disputing the same immediately thereafter. The question is whether it is necessary for the petitioner to adduce evidence for the suggestions given by the respondents.

8. It is to be noted that as the petitioner/plaintiff was taking time to advance arguments, the trial Court appears to have heard the respondents/defendants, who have come forward with their case. The suggestions made by the defendants that documents produced by the plaintiff are forged, which was denied, does not by itself warrant leading evidence, more so by summoning authorities when the entire trial is over and arguments are also heard.

9. Since the petitioner apprehends that the observations made by the trial Court in the impugned order will affect his case, trial Court shall deal with the matter un-influenced by any of the observations made and pass appropriate orders, in accordance with law, after taking into consideration the evidence available and also the provisions of the Act.

10. Accordingly, both the Civil Revision Petitions are disposed of. Miscellaneous Petitions, if any, pending in this revision shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

Date:27.08.2016
INL