

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No.1372 OF 2017

ORDER:

This civil revision petition is filed against the order in I.A.No.51 of 2017 in O.S.No.1 of 2009, dated 15.02.2017, passed by the Court of the VI Additional District and Sessions Judge, Markapur.

The petitioner herein is the defendant No.6 in the suit. She filed the application seeking an amendment of the prayer and a counter affidavit was filed by the first respondent stating that the trial of the suit commenced long back and the second petitioner was examined as D.W.1, but he did not face the cross-examination fully. At every stage, they were causing obstruction. The suit reached the stage of arguments and the present application was filed after the arguments were heard.

The suit was filed for declaration of title of the plaintiff and defendants 1 to 4 in items 1 and 2 of the plaint schedule and that of the plaintiff in items 3 and 4 and eject the defendants 6 to 16 therefrom and delivery of vacant possession.

The trial Court after considering the above pleadings taking into facts and circumstances of the case, dismissed the petition, by order, dated 15.02.2017 and against the said order, the present civil revision petition is filed.

In order to dismiss the petition, the trial Court gave the following reasoning.

7. Upon perusing the affidavit and the counter filed by the petitioner and respondents, the present suit is of 2009 and it is oldest and identified matter. This Court has given so many opportunities to the defendants with conditions and without conditions, but the defendants failed in compliance. The evidence of defendants is coming from 06.02.2016 and finally no cross reported by defendants 1, 6 to 9 and 16 on 27.06.2016 and the matter was posted for cross of D.W.4 by plaintiff finally call on 29.06.2016.

8. On 29.06.2016, D.W.4 called absent. No representation. Ample opportunity was given to defendant to adduce her evidence. Even though she did not turn up and called absent and as the matter was identified one, no more time will be granted and this Court offered so many adjournments to the defendant. Hence the cross of D.W.4 was closed and posted for arguments on 04.07.2016. Again the defendant filed I.A.No.438 of 2016 to reopen the defendant's side evidence and it was allowed on 10.11.2016. Since from 10.11.2016 defendant called absent. No representation. Conditions not complied. Hence this Court closed the defendant's side evidence on 18.01.2017 and posted for arguments on 24.01.2017. On 24.01.2017 this Court heard the arguments of plaintiff and also written arguments filed by the plaintiff and posted for defendants' argument at request of defendant on 31.01.2017.

9. At this stage after taking two adjournments, the petitioners/defendants filed two petitions, one for amendment of written statement and another to reopen the evidence of D6, D9. If such type of fractionous petitions filed at the stage of arguments even though so many opportunities given by the Court, there should not be any end for litigation. Hence, at this stage, this Court is not inclined to allow the petition at ripen stage. Hence, this petition is liable to be dismissed.

It is clear from the above that the cross-examination of D.W.4 was closed when the case was posted for arguments on 04.07.2016. At that stage also, the defendants filed I.A.No.438 of 2016 to reopen the evidence and it was allowed on 10.11.2016. After reopening, the defendant has not been present. There was no representation and conditions were also not complied. In those circumstances, the defendants' side evidence was closed on 18.01.2017 and posted for arguments on 24.01.2017. On that day, the arguments were heard.

In view of the same, after completion of the arguments of the plaintiff, the present application for amendment is not maintainable and it is intended only to procrastinate the said proceedings. Accordingly, the dismissal of the application of the petitioner by the trial Court is proper and this Court sees no ground to interfere with the same.

The civil revision petition is accordingly dismissed. Consequently, miscellaneous petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

14.07.2017
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