

HON'BLE SRI JUSTICE S.V.BHATT

CIVIL REVISION PETITION Nos.4382 and 4383 of 2017

COMMON ORDER:

Heard Sri K.Rathangapani Reddy for petitioners.

Defendants 5 and 6 in O.S.No.386 of 2011 are revision petitioners. The revisions are filed against the orders in I.A.Nos.426 of 2017 and 427 of 2017, dated 10.08.2017.

I.A.No.426 of 2017 is filed by respondents 1 and 2 herein for the following relief :-

“.... it is prayed that the Hon'ble Court may be pleased to order for recall of PW.1 in order to mark the documents mentioned in the document petition filed along with this petition in order to prove the case of petitioners/plaintiffs in the above suit in the interest of justice.....”

I.A.No.427 of 2017 is filed by respondents 1 and 2 herein for the following relief :-

“it is prayed that the Hon'ble Court may be pleased to grant leave by condoning the delay in filing the documents mentioned below and receive them and mark them as exhibits on behalf of petitioners/plaintiffs in order to prove their case in the interest of justice.....”

This Court, after seeing the affidavits filed by respondents 1 and 2 herein and the counter affidavits filed by the revision petitioners herein, is of the view that in a case like this while exercising discretion, the Court ought to have been persuaded

from weighing reasons to accept the prayers of respondents 1 and 2.

The trial Court, in the case on hand, exercised the discretion on the ground that it causes no prejudice and the petitioners herein would be given opportunity to raise objection.

Mr.Venkat Reddy vehemently contends by placing reliance on the decisions of the Hon'ble Supreme Court in *NAGUBAI AMMAL AND OTHERS v. B.SHAMA RAO AND OTHERS*¹, *HARIHAR PRASAD SINGH AND OTHERS v. BALMIKI PRASAD SINGH AND OTHERS*², *SYED AND COMPANY AND OTHERS v. STATE OF JAMMU & KASHMIR AND OTHERS*³ and *EXECUTIVE OFFICER, ARULMIGU CHOKKANATHA SWAMY KOIL TRUST, VIRUDHUNAGAR v. CHANDRAN AND OTHERS*⁴ that any amount of evidence without pleading cannot and could not be considered by the trial court and by allowing these applications, an academic exercise is undertaken by trial court. Therefore, he prays for setting aside the orders impugned in the revision.

This Court is of the view that the legal contention is well founded and there is no dispute on the proposition of law laid down by the decisions referred to above.

¹ AIR 1956 SUPREME COURT 593

² (1975) 1 Supreme Court Cases 212

³ 1995 Supp (4) Supreme Court Cases 422

⁴ (2017) 3 Supreme Court Cases 702

The learned trial Judge, in the orders impugned has stated that sufficient opportunity would be given to petitioners and they can raise their objections at appropriate stage of the suit.

By reserving the options given by the trial Court, these revisions are dismissed. Hence, as and when objections in this behalf are raised, the trial Court is under obligation to consider and pronounce its view in accordance with law. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

Dt: 04.09.2017
Prv



S. V. BHATT, J

