

HONOURABLE SRI JUSTICE P. NAVEEN RAO

CIVIL REVISION PETITION Nos. 5496, 5497 & 5498 of 2010

Date :26.10.2017

CRP 5496 OF 2010

Between :

Chennupati Krishna Rao S/o Chimpiraiah
61 years
R/o Bodipalem village, Kakumanu mandal, Guntur

Petitioner

And

Muppallaneni Ranga Rao S/o Atchaiah
54 years
R/o Pamidivarlpalem, Pedenandipadu mandal
Guntur and another

Respondents

The Court made the following:



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ORAL ORDER:

These three civil revision petitions are filed challenging the orders dated 4.10.2010 passed in I A No. 742 of 2010, I.A. No. 740 of 2010 and I.A No. 741 of 2010 respectively by the Principal Junior Civil Judge, Ponnur. I.A No. 740 of 2010 is filed to receive the list of witnesses by condoning the delay; I.A No. 741 of 2010 is filed to issue witness summons to Sharabandi, Ex-Bodipalem village Secretary; and I.A No. 742 of 2010 is filed to reopen the plaintiff's evidence for examination of Sharabandi, Ex-Bodipalem village Secretary.

2. Brief background for filing these I.As is as under:

3. Revision petitioner is second plaintiff, he along with another person filed O.S. No. 61 of 1995 to grant perpetual injunction over the suit schedule properties. Initially suit was dismissed on 13.12.1999. Aggrieved thereby, A.S. No. 95 of 2000 was filed on the file of Court of Senior Civil Judge, Bapatla and by judgment dated 13.2.2006 the suit was remanded. On remand, the evidence of petitioner was closed on 9.12.2009. At the stage of evidence of defendants, defendants have marked pattadar passbooks and title deeds and their evidence was closed on 10.3.2010 and the case was coming up for arguments on 16.6.2010, on which date it was adjourned to 28.6.2010. On 28.6.2010, petitioner filed above three Interlocutory Applications. In substance, the claim of the petitioner was that during the course of recording defense evidence, second defendant stated that the interpolations in pattadar passbooks and title deeds regarding survey numbers were made by the then Village Secretary by name Sharabandi. Petitioner claims that since there are interpolations in the documents marked on behalf of defendants, he should be permitted to examine the person who alleged to have carried

out those corrections. According to petitioner, the corrections were made by the second defendant but blame was sought to be shifted on to the Ex-Village Secretary.

4. However, this issue was not considered by the trial Court. The trial Court dismissed the Interlocutory Applications on the ground that the evidence of plaintiff was closed on 9.12.2009 and evidence of defendants was also closed much before 16.6.2010 and case was coming up for arguments and at that stage these applications were filed, therefore they are belated and are rejected. The trial Court referred to precedent decisions to hold that the said applications were filed with an intention to delay the proceedings.

5. As briefly noted above, the evidence of defendant no.2 was closed on 10.3.2010. It appears case was listed for hearing on 16.6.2010 and adjourned to 28.6.2010 on which date these applications were filed. It is not disputed by the learned counsel for respondents also that there were interpolations and deposition of defendants was closed only on 10.3.2010. Thus, from 10.3.2010 it cannot be said that there was unreasonable delay on the part of the petitioner in seeking reopening of the evidence, filing of list of witnesses and summoning of witness as the case may be. Further more, apparently, there were some interpolations in the two documents marked on behalf of defendants and those interpolations are attributed to Sharabandi, Ex-Bodipalem village Secretary. Thus, in the facts of these cases, it cannot be said that there was unreasonable delay in filing the interlocutory applications. Therefore the orders of trial Court under revision are liable to be set aside and are hereby set aside.

6. However, at this stage it is appropriate to note that Sharabandi, the then village Secretary ceased to be a village Secretary long ago and his whereabouts may not be known. When this was specifically pointed out, having regard to the fact that suit is of the year

1995 and interlocutory applications were disposed in the year 2010, learned counsel for petitioner fairly submitted that he will make endeavor to secure the presence of Sharabandi, Ex-Bodipalem village Secretary and time limit may be prescribed; that if within the time limit prescribed, if petitioner is unable to secure presence of Sharabandi, Ex-Bodipalem village Secretary, petitioner will proceed to make arguments without insisting on reopening of the evidence of P.W.1 and for production of witnesses.

7. In view of the said undertaking of the learned counsel for petitioner, the civil revision petitions are disposed of with following orders/directions:

- 1) Orders of the trial Court dated 4.10.2010 passed in I A No. 742 of 2010, I.A. No. 740 of 2010 and I A No. 741 of 2010 are set aside;
- 2) Trial Court is directed to reopen the evidence of P.W.1, allow the list of witnesses to be filed by the petitioner and issue summons to Sharabandi, Ex-Bodipalem village Secretary;
- 3) Petitioner shall file present address of Sharabandi, Ex-Bodipalem village Secretary before the trial Court within one week from the date of receipt of copy of this order so as to issue summons. If summons could not be served for lack of correct address or for any other reason presence of Sharabandi, Ex-Bodipalem village Secretary could not be secured within the period of six weeks from the date of submission of present address of Sharabandi by petitioner, the trial Court shall proceed with the matter

from the stage it was adjourned on 28.6.2010;

and

- 4) Having regard to the fact that the suit is of the year 1995, trial Court shall take expeditious steps for disposal of the suit.

8. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE:26.10.2017
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