

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

CIVIL REVISION PETITION No.2008 OF 2011

Dated:05.10.2017

Between:

M/s. Sri Majeti Veera Raghavaiah Firm
@ Majeti Veeraraghavaiah Firm, a
Proprietary concern by its Proprietor
Majeti Ramakrishna, S/o. Veera
Raghavaiah, aged 54 years, Business,
R/o.Door No.11-53-27, Sobhanadu Lane,
Vijayawada, Krishna District

.. Petitioner

And

M/s. Ambati Subbanna & Company Oil
Firm, a Regd. Firm, rep., by its Managing
Partners Sri Singavarapu Tulasidhara Rao
And Singavarapu Satyanarayana

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

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ORDER:

This revision is filed aggrieved by the order dated 09.03.2011 in I.A.No.179 of 2011 in O.S.No.34 of 2005 passed by the XI Additional District Judge (Fast Track Court), Kakinada, seeking leave of the Court to file documents appended to the petition. Through the said application, the respondents/plaintiffs listed out 14 documents to be marked. On consideration of the rival claims, the trial Court by order dated 09.03.2011 accepted the plea of the plaintiffs and allowed the petition, through the order under challenge.

2. Heard learned counsel for the petitioner/defendant and learned counsel for the respondents/plaintiffs.

3. Learned counsel for the petitioner sought to contend that the suit is of the year 2005; the documents, which are sought to be marked, are in possession of the plaintiffs; no valid reason is assigned for not filing the said documents earlier and only to protract the litigation and to harass the petitioner, the petition was filed. In support of the said contention that the documents could not have been accepted at a belated stage, learned counsel for the petitioner placed reliance on the order of this Court in ***Bolla Ajay Babu v. Nalla Manikyamma***¹. Learned counsel has particularly drawn the attention of this Court to paragraph No.6 of the said order. It reads as under:

“6. I have perused the copy of the impugned order passed by the Court below in I.A.No.808 of 2009. The Court

¹ 2010 (1) ALD 163

below rejected the said application on two grounds that (i) the certified copies of the documents were not obtained by the petitioner and that they were obtained by a third party and (ii) there is no reference to the documents in the pleadings, which are sought to be received. So far as ground No.1 is concerned, it is not necessary that the petitioner should only obtain the certified copies of the documents and it is no ground at all to reject the application, but the Court below was right in holding that the documents cannot be received in evidence by granting leave in the absence of any reference about the same in the pleadings. This Court is also of the opinion that in the absence of any reference to the documents, which are sought to be received, in the pleadings, the petitioner cannot seek leave of the Court to receive such documents, at the belated stage, when the suit is coming up for further evidence on the side of the plaintiff. Further, the judgment relied on by the learned counsel for the petitioner is also of no help to the petitioner as in the said judgment, the documents, which were sought to be marked, were referred to in the plaint. In the said judgment, it was held that certified copies can be received when they are referred to in the plaint and their authenticity is not disputed. In any event, having regard to the findings recorded by the Court below for rejection of the applications, I do not find any illegality in the orders impugned so as to interfere with the same in exercise of powers under Article 227 of the Constitution of India.”

4. In response, Sri N. Vijay, learned counsel for the respondents/plaintiffs, submits that filing of the said documents in the year 2011 would not have caused prejudice to the petitioner/defendant. The suit is at the stage of trial only and these are the documents which are part of the record and as the documents are mixed up with other documents, immediate steps could not be taken to present the same. It was a *bona fide* mistake. Further, it is only at the stage of receiving the

documents and during the course of receiving evidence, revision petitioner can raise all legally permissible objections.

5. Perusal of the order under revision reflects that the trial Court considered the objection raised by the petitioner/defendant. The trial Court noted that mere receiving the documents would not cause any prejudice to the petitioner/defendant and that the issue of proof and relevancy of the said documents can be considered only at the time of admission into evidence.

6. Having regard to the facts of this case, I see no error in the order under challenge warranting interference by this Court. The decision relied upon by learned counsel for the petitioner is of no avail to the petitioner. The facts, as noted above in paragraph No.6 of the said order, are that the suit was coming up for further evidence on behalf of the plaintiff and at that stage, interlocutory applications were filed seeking leave of the Court to receive additional documents in evidence, to reopen the case and to recall PW.1 for the purpose of marking documents. Having regard to the facts of the said case, this Court observed that since the relevancy of those documents was not mentioned in the plaint, petitioner cannot seek leave of the Court to receive such documents at the belated stage.

7. In view of the fact that the trial in the suit has not commenced, it cannot be said that the documents are presented at the belated stage. However, it is open to the petitioner to contest on proof and relevancy of the said documents at the time of admission into evidence. However, since such an application

was moved after six years, I deem it proper to award costs on the respondents/plaintiffs.

8. The Civil Revision Petition is accordingly dismissed. However, the respondents/plaintiffs are directed to pay costs of Rs.2,000/- to the petitioner/defendant within four weeks from the date of receipt of a copy of this order.

Miscellaneous Petitions, if any, pending in the Civil Revision Petition shall stand closed.

P. NAVEEN RAO, J

Date:05.10.2017

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