

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.Nos.2959, 2979 & 3158 OF 2017

COMMON ORDER:

Defendants in O.S.No.68 of 2010 on the file of the II-Additional Junior Civil Judge, Karimnagar are the revision petitioners.

The suit is for perpetual injunction. The plaintiff/respondent herein filed I.A.Nos.214, 366 and 367 of 2017 for the reliefs of reopening the case, recalling P.W.1 and leave to file the documents referred in the applications.

The respondent herein in the affidavit filed I.A.No.214 of 2017 alleges that the respondent may be permitted to file (i) original virasat proceedings bearing No.B/120/2005-12 dated 02.06.2005, (ii) original pattadar passbook bearing No. 202168 patta No.160, (iii) original title deed book bearing No.202168, corresponding to patta No.160, and (iv) original voucher of the bank. The applications for the reliefs referred to above were opposed by the respondents therein. The learned trial Judge through the order impugned in the revisions allowed all the applications. Hence, the revisions.

Mr.P.Suryanarayana Murthy contends that reopening of suit for further evidence when the suit stands posted for arguments amounts to literally exercising the jurisdiction conferred on the trial Court. On the said ground, he prays for setting aside the orders impugned in the revisions.

Mr.Rammohan Reddy contends that none of the documents now filed result in surprise to the revision petitioners. According to him, these documents (xerox copies) are substantially filed along with the suit. By referring to these documents, the written statement was filed and parties participated in the trial. Now, the request of respondent herein shall not be understood as introducing a new case resulting in prejudice to the revision petitioners herein. He relies on each one of the reasons given by the trial Court and prays for dismissing the revisions.

The contention now raised by revision petitioners is merely noted to be rejected. In the considered view of this Court, the trial Court keeping in its perspective the stage at which the prayers for reopen, recall and leave are made, considered each one of the relevant factors which have bearing on accepting the prayer, considering the prejudice if any and allowed the prayers. The reasoning of the trial Court as noted in I.A.No.214 of 2017 is excerpted for convenience:

“A careful perusal of records shows that along with plaint the petitioner has filed copies of pattedar passbook and title deed and now the petitioner intends to file originals. So the respondents have knowledge about the proposed documents i.e., pattedar passbook and title deed, therefore no prejudice would be caused to the respondents/defendants even if they received at this stage. The other document for which the counsel for respondents is objecting is with regard to the mutation proceedings, dated 2.6.2005. In this regard, counsel for petitioner argued that the said mutation proceedings is also a public document and it is also an old document, therefore question of creating such document at this stage does not arise. No doubt, there is no whisper about the mutation proceedings, dated 2.6.2005

in the plaint averments however, this Court is of the opinion that every opportunity must be given to both the parties to adduce their evidence to the fullest extent possible and it would also enable the Court for effectively adjudicating the lis. Further, for the delay and inconvenience caused by the petitioner to the other side, the same can be compensated by imposing costs on the petitioner. In view of the above reasons, this Court inclines to allow the petition”.

This Court, after perusing the record, is of the view that once the discretion is exercised by referring to facts which have bearing on the interlocutory prayer, this Court ought not to substitute its discretion and re-examine whether the discretion exercised by the Court below suffers from legal infirmity attracting the jurisdiction of this Court. This Court is in full agreement with the reasoning given by the trial Court.

The revisions fail and are, accordingly, dismissed. The learned trial Judge considers expediting the hearing of the suit as expeditiously as possible preferably within two months from the date of receipt of a copy of this order. There shall be no order as to costs.

Pending miscellaneous petitions, if any, stand closed.

S.V.BHATT, J

30th August, 2018
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