

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 4735 of 2017

ORDER:

1) The present Civil Revision Petition is filed by petitioner/ plaintiff under Article 227 of the Constitution of India questioning the order dated 03.07.2017 passed in I.A.No.225 of 2017 in O.S.No.71 of 2011 on the file of the Principal Junior Civil Judge, Alamuru, wherein an application filed under Order 14 Rule 5 of the Code of Civil Procedure to frame additional issue in respect of 'adverse possession' was dismissed.

2) The averments in the affidavit filed in support of the petition would show that the petitioner/ plaintiff purchased the property i.e. an extent of 168.25 sq. yards of vacant site in R.S.No.182/3 under registered sale deed dated 04.02.2008 vide document No.132 of 2008 executed by one Samudayapalepu Vasantha Kumari and her son Sri Hari for a valuable consideration and the vendors delivered possession of plaint schedule property. When the respondent/ defendant was trying to interfere with her possession, O.S.No.71 of 2011 came to be filed. Along with the suit, the petitioner also filed I.A.No.297 of 2011 seeking ad-interim temporary injunction restraining the defendant from interfering with her peaceful possession. By an order, dated 01.07.2011, the trial Court granted *status quo*. The said I.A. was dismissed for default on 19.06.2012, taking advantage of the same, the respondent high handedly and unauthorisedly occupied the schedule property, thereby disturbing the constructive possession of the schedule property. The respondent filed written statement

stating the he was in possession of the plaint schedule property by adverse possession. Therefore, the petitioner filed application to frame additional issue of adverse possession.

3) The respondent/ defendant filed counter contending that issues were already framed in the suit and that the matter is coming up for arguments, and as such the question of framing of additional issues would not arise. It is further stated that since long time the petitioner is dragging the matter on one pretext or the other.

4) After considering the material on record, the trial Court dismissed the said application. Challenging the same, the present Civil Revision Petition came to be filed.

5) Though the order came to be passed on 03.07.2017 and the certified copy was obtained on 11.07.2017, the present application came to be moved today by way of lunch motion.

6) As seen from the record, earlier the petitioner moved two applications for framing of additional issues, which were in the month of December, 2016 were returned with an endorsement to explain as to how the said applications are maintainable. It appears that no effort was made to answer the said objections raised by the office. Thereafter, another application came to be filed in the month of May, 2017 for the very same relief, in which the impugned order came to be passed. The conduct of the petitioner/plaintiff appears to be highly deplorable. As seen from the record, though the case is posted for arguments. The petitioner is successfully getting the matter adjourned on one pretext or the other. The present application came

to be filed seeking the very same relief, which was sought earlier, wherein the request was returned on the ground of maintainability.

7) It is not in dispute that no effort was made to answer the objections raised by the office. When the case was posted for arguments, the petitioner is trying to prolong the matter on one pretext or the other. It is to be noted here that the suit was of the year 2011, issues were framed on 28.03.2013 and additional written statement was filed on 14.11.2014 stating that the defendant constructed a thatched house bearing D.No.6-88/ 11 in the plaint schedule property in the year 1999 and since then he is paying all the taxes and enjoying the plaint schedule property by way of adverse possession as a owner of the property. Though the additional issues were framed on 23.04.2015, the present petition is filed on 02.05.2017 after the closure of evidence of both sides.

8) Having regard to the above, I see no grounds to interfere with the order passed by the trial Court and hence, the civil revision petition is liable to be dismissed.

9) Accordingly, the civil revision petition is dismissed.

10) As a sequel thereto, Miscellaneous Petitions, if any, pending shall stand closed. There shall be no order as to costs.

17.11.2017
kvrn

C. PRAVEEN KUMAR, J