

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NOS.

4422, 4508 AND 4538 OF 2017

C O M M O N O R D E R

These three civil revision petitions under Article 227 of the Constitution arise out of the separate orders dated 01.08.2017 passed by the learned Principal District Judge, Ranga Reddy District, in three interlocutory applications filed by the plaintiffs in O.S.No.1051 of 2008. All the applications were dismissed by the trial Court. Aggrieved thereby, the plaintiffs are before this Court.

I.A.No.1575 of 2017 was filed by them under Section 151 CPC to reopen the plaintiffs' evidence to enable marking of further documents through P.W.1. C.R.P.No.4538 of 2017 arises out of the dismissal of this I.A. I.A.No.1576 of 2017 was filed by them under Order 7 Rule 14 CPC to receive additional documents by condoning the delay. C.R.P.No.4422 of 2017 pertains to the dismissal of this I.A. I.A.No.1577 of 2017 was filed by them under Order 18 Rule 17 CPC to recall P.W.1 for marking of further documents. C.R.P.No.4508 of 2017 relates to the dismissal of this I.A.

Heard Sri J.Suresh Babu, learned counsel for the petitioners/ plaintiffs, and Sri Unnam Muralidhar Rao, learned counsel for the contesting respondents/defendants.

As the main application before the trial Court was I.A.No.1576 of 2017 under Order 7 Rule 14(3) CPC, arguments were advanced by Sri J.Suresh Babu, learned counsel, principally on that issue.

O.S.No.1051 of 2008 was filed for partition of the suit property; a declaration that each of the plaintiffs was entitled to 1/12th share therein; and for appointment of a Commissioner to divide the suit

property by metes and bounds and to put the plaintiffs in possession of their respective shares. The affidavit filed in support of I.A.No.1576 of 2017 states that during the course of cross-examination of D.W.3 (defendant No.1), he denied the existence of the orders of the Land Reforms Court passed in the year 1976 and said that there was an oral partition before the year 1966. The plaintiffs claimed that they then obtained certified copies of the said orders and pahanies to show that there was no partition between the fathers of the plaintiffs and defendants 1 to 6 respectively. They therefore sought to file the said documents by seeking the leave of the trial Court under Order 7 Rule 14(3) CPC.

In the counter to the aforestated I.A., defendant No.1 stated that during the course of his examination, he never denied existence of the orders of the Land Reforms Tribunal passed in the year 1976 as no such suggestion or question was ever put to him. He further stated that he was never confronted with any document in this regard during his cross-examination. He asserted that the plaintiffs could not fill the gaps by filing such petitions and pointed out that there was no pleading whatsoever in the plaint regarding the documents that were sought to be filed.

Upon considering these pleadings, the trial Court found that a question was posed to D.W.3 (defendant No.1) about a declaration being given to the Land Reforms Authority. There was no confrontation of the witness with any document and there was no denial by him about the existence of any such declaration. The trial Court found that the plaint did not contain any reference to a declaration being made before the Land Reforms Tribunal. Further, the trial Court found that the plaintiffs failed to explain as to why

this document was not produced by them earlier. The trial Court further found that the original of the proceedings before the Land Reforms Tribunal was produced along with the certified copy dated 03.04.2017. As the original was available with them all through, the trial Court opined that there was no need for them to wait for a certified copy thereof and no reason was given by them as to why they withheld the original and then produced the certified copy along with the original. As the suit was filed in the year 2008 and the cross-examination of D.W.3 continued up to 16.02.2016, the trial Court opined that sufficient cause was not made out for granting leave to the plaintiffs and accordingly dismissed the I.A.

Sri J.Suresh Babu, learned counsel, would place reliance on **JOHN SANTIYAGO V/s. CLEMENT DASS**¹ in support of his contention that mere non-mention of the documents in the plaint would not, in any manner, affect the power of the Court to grant leave to produce such documents at a subsequent stage.

There can be no doubting this settled legal principle, but the fact remains that while seeking leave under Order 7 Rule 14(3) CPC, the plaintiff must invariably show sufficient cause as to why he failed to produce the document at the time of presentation of the plaint. In **G.SANJEEVA REDDY V/s. INDUKURU LAKSHMAMMA**², this Court held that exercise of discretion under Order 7 Rule 14(3) CPC is not as a matter of course and the plaintiff has to satisfy the Court as to why he was unable to present the documents along with the plaint. Reasonable cause must be shown or established for exercise of the discretion under Order 7 Rule 14(3) CPC.

¹ 2014 (2) ALD 184

² 2006 (1) APLJ 465

In the case on hand, the plaintiffs seem to have had the original of the declaration that they now wish to file. They however stated that they obtained certified copies of the said document and other documents and thereafter filed the subject I.A. No explanation is forthcoming as to why, when they already had the original, they needed to obtain a certified copy thereof. Further, when the very suit filed by them was for partition and an original document was already available with them, which had relevance to their suit prayer, they ought to have produced it at the time of presentation of the plaint.

It is not open to the plaintiffs to build up and improve their case as they go along. Even as per their own admission, it is only upon cross-examination of D.W.3, that they struck upon the idea of producing the declaration in question. When the document was available with them all along and they have no reason to offer for the delay on their part in producing it and more particularly, along with the plaint itself, this Court finds **no** error in the refusal by the trial Court to exercise its discretion under Order 7 Rule 14(3) CPC at this late stage. The order dismissing I.A.No.1576 of 2017 therefore does not brook interference. In consequence, dismissal of I.A.Nos.1575 and 1577 of 2017 also does not warrant interference.

The civil revision petitions are devoid of merit and are accordingly dismissed. Pending miscellaneous petitions, if any, in all these revision petitions shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

3rd NOVEMBER, 2017

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