

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CIVIL REVISION PETITION No.1125 of 2017

ORDER:

The petitioner has aggrieved by the order dated 07.02.2017 passed in I.A.No.58 of 2017 in ATC No.3 of 2012 by the Principal Junior Civil Judge, Sattenapalli, whereby the petitioner sought to reopen the main ATC No.3 of 2012 for adducing further evidence.

2. It is not in dispute that the aforesaid ATC was filed by the respondent before the Tenancy Special Officer-cum-Principal Junior Civil Judge, Sattenapalli against the petitioner to declare him as cultivating tenant of the petition schedule land and for consequential permanent injunction.

3. It is also not in dispute that after trial, the matter was posted for arguments on 02.03.2017, however the petitioner moved a petition, whereby stating that certain new facts were elicited and became necessary for the petitioner to file additional documents. The said documents are : Ex.R5 - the certified copy of Gift Deed, executed by Kilari Subbamma in favour of the petitioner; Ex.R6 - the link document, dated 21.10.1972; Ex.R7 - IB Namuna (ROR) issued by Tahsildar, Krosuru through Meeseva in favour of the petitioner dated 29.6.2016; Ex.R8 - the Adangal copy issued by Tahsildar, Krosurur through Meeseva in favour of the petitioner, dated 29.6.2016 and Ex.R9 - the Adangal copy issued by Tahsildar,

Krosurur through Meeseva in his favour pertaining to the ATC schedule properties, dated 29.6.2016.

4. For the sake of repetition, it is not in dispute that the respondent filed ATC against the petitioner seeking relief of declaring him as cultivating tenant. Therefore, the main point to be determined in the main ATC is: whether the petitioner is the cultivating tenant of the schedule property. Thus, the burden lies on the respondent, who approached the Court seeking relief sought for in I.A.No.58 of 2017.

5. On a perusal of the order dated 07.02.2017, I note that sufficient opportunities were granted to the petitioner to adduce his evidence. From 03.06.2016, the matter was posted for petitioner evidence. The evidence of petitioner was closed in main ATC on 29.09.2016. On 02.12.2016, the argument of the petitioner was heard and argument of the respondent was heard in-part. At that stage, the petitioner filed a petition to reopen the evidence of the petitioner for producing certain documents as noted above and for marking the same.

6. The learned trial Court opined that having taken sufficient opportunity of more than six months for adducing evidence of the petitioner, filing of such petition at the fag end of the case, and that too, when the matter is posted for further arguments of the petitioner, discloses the laches on the part of the petitioner in filing the petition.

7. It is not in dispute that ATC is of the year 2012, hence, the petitioner had knowledge about the documents, which he ought to have filed since 2012, after entering appearance and filing the counter.

8. If the petition is allowed filed by the petitioner, it will drag on the matter further, and the petitioner will continue to enjoy the cultivation right. Moreover, said documents are not relevant on the issue to be adjudicated.

9. Keeping in view the facts recorded above and the grounds taken in the present petition, I find no illegality or perversity in the order dated 07.02.2017 passed in IA No.58 of 2017 in ATC No.3 of 2012.

10. Finding no merit in the present Civil Revision Petition and the same is accordingly dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

JUSTICE SURESH KUMAR KAIT.

Date : 16-03-2017

Gvl