

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

C.R.P.No.1829 OF 2017

ORDER

Heard learned counsel appearing for the petitioner.

This Civil Revision Petition is directed against the order dated 17.02.2017 passed in I.A.No.390 of 2016 in O.S.No.185 of 2011 by the VI Additional District & Sessions Judge, Markapur.

The petitioner is the plaintiff. He filed the said suit for declaration of title, partition of plaint schedule property of an extent of Ac.33-50 cents out of Ac.35-90 cents and for consequential mandatory injunction directing the defendants to carry out necessary mutation in the land revenue records. The evidence on behalf of the plaintiff was closed on 23.4.2015 and the evidence on behalf of the defendants was also completed. When the suit was coming up for arguments, the present application was filed seeking to receive the documents by condoning the delay, with the following averments:

“I filed suit for a declaration against the defendants 1 to 6 and for mandatory injunction against the defendants 7 and 8. I was examined as PW1 in the above case and examined my witnesses and closed my side evidence. Further that the Hon'ble Court was pleased to examine the defendant and his witnesses and closed evidence, as such that the Hon'ble Court was

pleased to post the above case for arguments. Recently, I secure some of the revenue documents under Right to Information Act and lower Courts judgment copies which are available, those documents are most important to prove my case. During the course of my evidence, I am unable to mark the documents by mistaken. So, in view of the same to prove my contention, I have to mark the above said documents by the Hon'ble Court on behalf of me. It is essential in the interests of justice that the Hon'ble Court may be pleased to receiving the documents mentioned in the petition to mark the documents and give my evidence. There is no wilful laches or negligence on my part. I have got good case to succeed the matter.”

The said application was dismissed by the trial Court on 17.02.2017 with the following observations:

“Upon perusing the affidavit and the counter filed by the petitioner and respondents, the present suit is of 2011 and it is an oldest and identified matter. This Court has given so many opportunities to the petitioner/plaintiff with conditions and without conditions. PW1 was examined on 18.02.2015 and on his behalf PWs.2 and 3 were also examined and the plaintiff's side evidence was closed on 23.4.2015. Ample opportunity was given to petitioner/plaintiff to adduce his evidence. Even though he did not turn up and called absent and as the matter was identified one, no more time will be granted and this Court offered so many adjournments to the plaintiff. Hence, the further evidence of plaintiff was closed

on 23.4.2015 and posted for defendant's side evidence. Now the suit is coming for arguments.

At this stage after taking so many adjournments the petitioner/plaintiff filed three petitions, one for to reopen the evidence of PW1 to recall the evidence of PW1 and to receive the documents for marking. If such type of fractious petitions filed at the stage of arguments even though so many opportunities were given by the Court, there should not be an end for litigation. Hence, at this stage, this Court is not inclined to allow the petition at ripen stage. Hence, this petition is liable to be dismissed."

Challenging the same, the present civil revision petition is filed.

I have carefully gone through the record and I am in agreement with the observations made by the trial Court while dismissing the application. It is also brought to the notice of this Court that after dismissal of the present application, the suit itself was dismissed for non-prosecution. Later, on an application filed by the plaintiff, the suit was restored to its file. This clearly shows the negligence of the plaintiff in prosecuting his case.

In the circumstances, I do not see any ground to interfere with the order passed by the trial Court as the application filed by

the petitioner-plaintiff does not show any justifiable reason for interference.

Accordingly, the Civil Revision Petition is dismissed. No costs.

JUSTICE A.RAMALINGESWARA RAO

21st July, 2017
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