

THE HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION No.4965 of 2017

ORDER:

1) Assailing the order, dated 21.08.2017, passed in I.A.No.733 of 2017 in O.S.No.226 of 2010 on the file of the Senior Civil Judge, Peddapurm, wherein an application made under Section 151 C.P.C. praying the Court to re-open the suit for the purpose of recalling PW.1 and to mark documents, was rejected, the present Civil Revision Petition came to be filed.

2) The petitioner herein is the plaintiff and the respondents herein are the defendants in O.S.NO.226 of 2010. For the sake of convenience, the parties hereinafter be referred to as arrayed in the suit.

3) The facts in the I.A. filed are as under:

The petitioner/plaintiff filed the above suit seeking to declare that the plaintiff is entitled for recovery of 1/3rd share in the compensation amount payable by defendant No.1 for the acquisition of the schedule property; and consequential injunction restraining defendant Nos.1 and 2 from paying the compensation to anybody. When the suit was posted for arguments, the petitioner/plaintiff filed the present application to re-open the suit for the purpose of recalling PW.1 to mark certain documents. It is stated in the affidavit that land admeasuring Ac.4.20 cents originally belonged to the grandfather of the petitioner by name Palisetty Nagaraju Tatarao, Now, defendant No.4 pleads that the said property is the ancestral property of Palisetty Tataro. To substantiate his contention, the petitioner was advised to

file the documents. In spite of his best efforts he could not get the certified copies of the said documents at the time of his evidence and now he has obtained the said documents. For the purpose of marking the said documents, it is essential to re-open the suit.

4) A counter came to be filed by the respondents/defendants opposing the same contending that the petition is filed at a belated stage, that too when the matter is posted for arguments. Though the petitioner obtained the said documents on 18.10.2012, he could not take any steps for marking of the said documents at the earliest. Only in the year 2017, an application came to be filed for re-opening of the case without any application to recall PW.1.

5) After considering the arguments advanced, the trial Court dismissed the said petition. Aggrieved by the same, the present revision petition is filed.

6) Learned counsel for the petitioner would submit that recently the petitioner secured the documents, which are sought to be received and the said documents are very crucial to prove his case.

7) Learned counsel for the respondents would submit that the proposed documents were obtained by the petitioner on 18.10.2012. If really the said documents are essential, no explanation is forthcoming as to why the petitioner could not take any steps to mark the same. The petitioner filed the present petition only to drag on the proceedings.

8) It is to be noted here that the averments in the affidavit filed in support of the petition does not anywhere indicate the particulars of the documents which are sought to be marked and as to how the said

documents are useful to the case of the petitioner/plaintiff. Apart from that, the petitioner failed to give any reasons as to why the said documents were not filed along with the suit. The reason now given is that inspite of his best efforts he could not get the certified copies of the said documents. It is to be noted here that the suit is of the year 2010 and when the case is posted for arguments, the present application seeking to re-open the suit for the purpose of recalling PW.1 to mark certain documents, came to be filed.

9) In *S Harshavardhan Reddy v. Vemula Ram Reddy*¹ this Court held as under:

“In the present case, the petitioner, who is the plaintiff, very much knew the stand of the respondent/defendant as reflected in the written statement filed in the year 2008 itself. No person of ordinary prudence would expect the defendant to come out with a different version in his oral evidence from the one taken by him in the written statement. Therefore, the petitioner has no reason to have waited till completion of the evidence and file the application at his leisure after the entire evidence was closed. If such a course is permitted, the endeavour of the courts for early disposal of the cases will be frustrated. This Court is more concerned about the utter lack of diligence on the part of the petitioner in filing the application.”

10) In *Dhatla Lakshmipathi Raju v. P.Venkata Ramana and another*² this Court held as under:

“It is the laidback approach of the parties or their counsel in filing applications belatedly that has not only been causing prejudice to the interests of the parties, but also

¹ (2015) 1 ALT 306

² (2017) 4 ALT 386

leading to abnormal delays in disposal of cases. Had the petitioner been diligent in filing the application immediately after filing of the written statement or at least before commencement of the trial, his interests would have been well-served. The Courts, facing severe pressure of pendency of cases for long time, cannot be expected to allow the applications of this nature thwarting their efforts to dispose of cases as quickly as possible. On the one hand the litigants are critical of abnormal delays in disposal of cases and on the other hand they file applications after applications in pending suits, some of them are wholly needless, at far too belated stages stalling the suit proceedings. This attitude of the parties as well as their counsel need to be changed and sooner it happens it is better for the litigant public.”

11) The counsel for the respondents would submit that an application for re-opening of the case is not maintainable without any application to recall the witness. The counsel for the petitioner would submit that once the case is re-opened, recall of the witness is consequential and automatically followed.

12) Keeping the legal issue open and in view of the judgments referred to above, I am of the opinion that the petitioner failed to furnish proper and sufficient reasons for re-opening of the suit, for the purpose of recalling RW.1 for marking documents at a belated stage.

13) For the aforesaid reasons, the present Civil Revision Petition sans merit and the same is accordingly dismissed. No order as to costs.

14) As a sequel thereto, Miscellaneous Petitions pending if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

30.11.2017
gkv