

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY
CIVIL REVISION PETITION Nos. 3907, 3936 & 3909 OF 2016

COMMON ORDER:

These three civil revision petitions, under Article 227 of the Constitution of India, are filed challenging the orders dated 14.06.2016 passed in I.A. Nos.38 and 37 of 2016 and the order dated 02.06.2016 passed in I.A. No.39 of 2016 in O.S. No.302 of 2008 passed by the Additional Senior Civil Judge, Chittoor, whereby these petitions were allowed condoning the delay in filing the documents, reopening the evidence of plaintiff to adduce further evidence, and permitted recall of P.W.1 for the purpose of marking the documents and to adduce further evidence with regard to source of title.

The revision petitioner herein is the 2nd respondent, 1st respondent herein is the petitioner and 2nd respondent herein is the 1st respondent in the above interlocutory applications. They will hereinafter be referred to as arrayed in the civil revision petition for convenience sake.

The main reason for filing of the above interlocutory applications is that the suit schedule property was purchased in the year 1932 by Veeraswamy Naidu from Yasodhamma, later the said Veeraswamy Naidu executed the gift deed in favour of his daughter on 25.09.1946. To prove the source of title only, the 1st respondent sought to reopen the evidence under section 151 CPC for the purpose of marking documents and to adduce further evidence, to receive documents under Rule 14(3) of Order VII of CPC and to recall of P.W.1 under Rule 17 of Order XVIII of CPC.

The 1st respondent filed suit for declaration of title and recovery of possession of the plaint schedule property which was derived from her father Veeraswamy Naidu by way of gift settlement deed. After hearing argument of both the counsel and when the judgment is reserved by the trial court, these three petitions are filed to bring certain facts on record. The reason for the delay was not explained in the entire affidavit except stating that now she traced out the certified copy of sale deed dated 16.09.1932.

These petitions were opposed before the trial court on various grounds, but still the trial court allowed the petitions on the ground that these documents are necessary to decide the dispute effectively.

Aggrieved by the orders passed by the trial court in all the petitions, the present revision petitions are filed on various grounds.

The main ground is that the 1st respondent did not assign any reason for her failure to take steps, to introduce the document i.e. sale deed dated 16.09.1932 and when the suit was heard and judgment was reserved, the 1st respondent cannot file these three petitions and prayed for dismissal of the petitions. But the trial court did not consider the objections raised before it and totally ignored and passed the impugned orders.

Undisputedly, the suit was filed in the year 2008 for declaration of title and recovery of possession and both the parties went on trial, adduced evidence and advanced argument. After the matter was reserved for judgment, the above interlocutory

applications were filed under Rule 14(3) of Order VII, under Section 151 CPC and Rule 17 of Order XVIII of CPC.

The 1st respondent filed certified copy of the sale deed dated 16.09.1932 and the trial court received the same by exercising power under Rule 14(3) of Order VII of CPC on the ground that recently the 1st respondent obtained certified copy. But this ground cannot be accepted for the reason that there is a reference about the title by way of gift settlement deed in paragraph 4 of the plaint and if really the 1st respondent is interested to produce such document, she would have produced the same atleast immediately after filing the suit, that to, the suit was filed in the year 2008 and these petitions were filed in the year 2016 without assigning any reason.

In such circumstances, when no reason is assigned in the petition, the court cannot condone the delay and grant leave to file documents in view of judgment of this Court in **Voruganti Narayana Rao v. Bodla Rammurthy and others**¹ and the same was affirmed by this Court in **Jai Siha v. Deewan Ranveer Singh and Another**². In these judgments this Court considered the applications under Rule 1-A of Order VIII of CPC which is in *pari materia* with Rule 14(3) of Order VII of CPC and when no reason was assigned, the courts are not expected to receive the documents.

Yet there is no factual foundation in the pleadings about the purchase of the property by Veeraswamy Naidu except a vague reference of gift deed at paragraph 4 of the plaint. Therefore, in the absence of any foundation in the pleadings, the documents cannot

¹ 2011(6) ALD 142

² MANU/AP/3391/2013

be received without assigning any reason for failure in compliance of Rule 14(1) & (2) of Order VII of CPC.

The other petitions filed by the 1st respondent are to reopen the case for the purpose of marking the document and to adduce further evidence. Admittedly the matter was reserved for judgment after hearing both the counsel. In such case the court cannot reopen the matter in view of law declared by the Apex Court in **Arjun Singh v. Mohindra Kumar and Ors.**³, wherein it was clarified at what stage the matter can be reopened for adducing further evidence and held as follows:

“The opening words of that rule are, as already seen, ‘Where the Court has adjourned the hearing of the suit ex parte’. Now, what do these words mean? Obviously they assume that there is to be “a hearing” on the date to which the suit stands adjourned. If the entirety of the “hearing” of a suit has been completed and the court being competent to pronounce judgment then and there, adjourns the suit merely for the purpose of pronouncing judgment under O.XX R.1, there is clearly no adjournment of “the hearing” of the suit, for there is nothing more to be heard in the suit.”

Sri S.V. Muni Reddy, learned counsel for the revision petitioner, made an attempt to distinguish the facts of the judgment in **Arjun Singh v. Mohindra Kumar and Ors.** (1st supra) with the present facts of the case.

No doubt, the facts are different, but the principle of law declared by the Apex Court is that when the matter was heard and reserved for judgment, there is nothing to be heard by the court, the question of hearing further does not arise. Therefore, based on the law declared in the judgment, it is difficult to conclude that the 1st respondent is entitled to claim reopen the case for the purpose

³ AIR 1964 SC 993

of marking the document and to adduce further evidence. Hence, at this stage when the suit was reserved for judgment after hearing, the evidence cannot be reopened, the petition for reopening the evidence of plaintiff cannot be allowed, the trial court committed an error in allowing such application.

In view of the dismissal of the petition for reopening the evidence of Plaintiff, the petition to recall of P.W.1 for the purpose of marking the document and to adduce further evidence on her behalf cannot be allowed.

Hence these civil revision petitions are liable to be allowed setting aside the orders under challenge.

In the result, these civil revision petitions are allowed while setting aside the orders dated 14.06.2016 in I.A. Nos.38 and 37 of 2016 and the order dated 2.06.2016 in I.A. No.39 of 2016 in O.S. No.302 of 2008 passed by the Additional Senior Civil Judge, Chittoor. No costs.

Miscellaneous petitions, if any, pending in these civil revision petitions shall stand closed.

M.SATYANARAYANA MURTHY, J

19.06.2017

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