

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

CIVIL REVISION PETITION Nos.2619, 2625, 2626 & 2627 of 2012

COMMON ORDER:

Since all these Civil Revision Petitions arise out of one suit, and as they are inter-related, this Court deems it appropriate to dispose of these matters by way of this common order.

Heard Sri Ashok Reddy Kanathala, learned counsel for the petitioner. None for the respondents.

The plaintiff in O.S.No.91 of 1994 on the file of the learned Principal Junior Civil Judge, Jangaon is the petitioner in all these revision petitions filed under Article 227 of the Constitution of India.

C.R.P.No.2619 of 2012 is filed against the order in I.A.No.29 of 2012 filed by the petitioner, under Order VII Rule 14 CPC, requesting the Court below to receive additional documents.

C.R.P.No.2625 of 2012 is filed against the order in I.A.No.30 of 2012 filed by the petitioner, under Section 151 CPC, seeking to reopen the evidence of P.W.1 for further chief examination.

C.R.P.No.2626 of 2012 is filed against the order in I.A.No.31 of 2012, filed by the petitioner, under Order XVIII Rule 17 CPC, seeking to recall P.W.1.

C.R.P.No.2627 of 2012 is filed against the order in I.A.No.64 of 2012 filed by the petitioner, under Order VII Rule 14 CPC, praying the Court below to receive additional documents.

Petitioner herein filed O.S.No.91 of 1994 against the respondents herein for a decree in his favour for declaration of title

and consequential injunction to restrain the defendants, their family members, servants, agents, associates, henchmen, friends etc., from entering and interfering with the possession and enjoyment over the suit property. Admittedly, after conclusion of the evidence on behalf of the plaintiff, and when the suit was coming up for marking of documents through D.W.1, the present interlocutory applications were filed before the Court below for the reliefs, as mentioned supra. The said applications were resisted by the respondents/defendants by filing counter. The learned Principal Junior Civil Judge, Jangaon, by way of the orders under challenge, dismissed the above said applications. Hence, the present revision petitions.

According to the learned counsel for the petitioner, the impugned orders are erroneous, contrary to law and are opposed to the very spirit and object of the provisions of the Code of Civil Procedure. It is the further submission of the learned counsel that, since the present suit is filed for declaration of title in respect of valuable property, the learned Judge ought to have allowed the applications and ought to have permitted the petitioner herein to adduce further evidence. It is also submitted by the learned counsel that the finding of the Court below, that the applications were filed at a belated stage, cannot be sustained and is erroneous.

In the above background, now the issue that emerges for consideration by this Court in the present revision petitions is:

Whether the orders impugned are sustainable and tenable and whether the petitioner herein is entitled for

any relief from this Court under Article 227 of the Constitution of India?

There is absolutely no controversy on the reality that, after the conclusion of the examination of P.W.1 and when the suit was coming up for evidence on behalf of the defendants, the present applications were filed before the Court below. It is also required to be noted that the evidence on behalf of the plaintiff was closed on 07.09.2011 and the present applications were filed on 01.02.2012. Therefore, by any stretch of imagination, it cannot be said that the said applications were filed at a belated stage. The documents, which are sought to be pressed into service by the petitioner herein through the present applications, in the considered opinion of this Court, are highly crucial and important for the purpose of coming to a just and reasonable conclusion before the Court below. Since it is a suit basically for the relief of declaration of title in respect of immovable property, the Court below should have permitted the petitioner herein to file the said documents and should not have scuttled the further evidence. In this context, it may be appropriate and relevant to refer to the judgment of the Honourable Apex Court in **K.K.VELUSAMY v. N.PALANISAMY**¹, wherein the Honourable Apex Court, while dealing with situation, categorically held that, where the application is found to be *bona fide* and where the additional evidence, oral and documentary evidence, will assist the Court to clarify the evidence on the issues and will assist in rendering justice, the Court may exercise

¹ (2011) 11 SCC 275

its discretion to recall the witnesses or to permit the fresh evidence. In the instant case also the documents, sought to be pressed into service by the petitioner herein, would certainly have impact on the process of adjudication of the suit. As observed above, the Court below ought not to have held that the applications were filed at a belated stage. In the facts and circumstances of the case, in view of the above reasons, and having regard to the law laid down by the Honourable Apex Court in the above referred judgment, this Court is of the view that the impugned orders are unsustainable in the eye of law.

For the aforesaid reasons, the Civil Revision Petitions are allowed. Consequently, I.A.Nos.29, 30, 31 and 64 of 2012 in O.S.No.91 of 1994 on the file of the learned Principal Junior Civil Judge, Jangaon are also allowed.

As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

14th September, 2017
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A.V.SESHA SAI, J