

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION Nos.5375, 5377 and 5371 of 2012

COMMON ORDER:

CRP.No.5375 of 2012 is filed against the order dated 18.07.2012 passed in I.A.No.54 of 2012 in O.S.No.67 of 2006.

Petitioners – plaintiffs filed the suit in O.S.No.67 of 2006 for injunction with respect to the suit schedule property. At the fag end of the arguments, the petitioners filed I.A.No.54 of 2012 seeking to reopen the suit for further cross-examination of PW.1 and to mark photographs and CD; I.A.No.55 of 2012 was filed to recall PW.1 – plaintiff for further cross-examination; and I.A.No.56 of 2012 was filed to receive certain documents and also report of the advocate commissioner in O.S.No.130 of 1995.

The learned Judge, after considering the respective contentions, had observed as under:

“The case is pending since 2006. It is an identified case. The plaintiff - PW.1 filed chief evidence affidavit on 25.11.2010 and after examination of plaintiffs’ side witnesses and defendants’ side witnesses, the evidence was closed and the matter was posted for arguments. The present application filed at belated stage to reopen the case for further examination of the plaintiff and to mark the documents. Though the plaintiff is aware of the commissioner’s report in O.S.No.130 of 1995, the same was not filed either with the plaint or during the course of trial. The photos and CDs are also not filed and there is no excuse of satisfactory reason for filing the said documents with abnormal delay, after closure of the evidence. The plaintiff was subjected to cross-examination and the defendants’ side evidence was also over. At this stage, the plaintiff could not be permitted to be examined and introduced fresh documents which are already in his knowledge to cover the lacunas in his evidence. The suit relates to

permanent injunction and the photographs of the property are not that much relevant. In respect of the nature of the property, whether it is building, land or house, the plaintiff has to establish his own case. I do not find any merits in the present application to reopen the case. The case is already pending for the past 18 years and the present application is filed only to drag on the proceedings and there are no merits in the petition.”

In view of the settled law that evidence cannot be reopened after closure of evidence and at the time of arguments, and there being no illegality, the order in I.A.No.54 of 2012 does not call for interference.

CRP.No.5375 of 2012 fails and is, accordingly, dismissed.

There being no sufficient reason for petitioners – plaintiffs not bringing the documents and marking the same which they seek through I.A.No.56 of 2012, the order of the learned Judge dismissing I.A. cannot be found fault with. As the reopening of evidence itself is dismissed, question of recalling PW.1 for further cross-examination in I.A.No.55 of 2012 does not arise.

CRP.Nos.5377 and 5371 of 2012 are, accordingly, dismissed.

Miscellaneous petitions pending, if any, shall stand disposed of.

CHALLA KODANDA RAM,J

Date:31.08.2017
 usd

