

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

CIVIL REVISION PETITION NOs.3637 OF 2014 AND 4077 OF 2016

DATED:07-07-2017

Between:

Sarakaram Satyanarayana ... Petitioner

And

Kandregula Jagan Mohan Venkata Reddam Naidu ... Respondent

COUNSEL FOR THE PETITIONER: Mrs. T.V. Sridevi

COUNSEL FOR THE RESPONDENT: Mrs. K. Jayashree



THE COURT MADE THE FOLLOWING:

ORDER:

These cases reflect the typical mindset of a litigant in a civil litigation who perceive prolongation of litigation as far as possible itself as a gain, pushing the adversary party to the brink of uncertainty and frustration.

2. The brief facts leading to the filing of these two civil revision petitions quite interesting as they appear to be, are that the respondent filed O.S. No.222 of 2011 on the file of the Additional Senior Civil Judge, Anakapalli, for recovery of money, against the petitioner. The respondent filed his chief examination affidavit as P.W.1 and the case was posted to 28.7.2014 for his cross-examination. As the petitioner's counsel was not ready to cross-examine the witness, the case was adjourned to 7.8.2014 at his request. Even on 7.8.2014, an adjournment was sought on behalf of the petitioner. The lower Court has declined the request for adjournment and closed the evidence of P.W.1 by showing the cross-examination as 'nil'. The petitioner thereupon filed I.A. No.161 of 2014 for recalling P.W.1 for cross-examination. The lower Court by order dt.25.8.2014 has graciously allowed the said application, however, by imposing costs of Rs.2,500/- to be paid by the petitioner on or before 27.8.2014. Instead of paying the costs, the petitioner has chosen to approach this Court by filing C.R.P. No.3637 of 2014. On 24.10.2014 the case was adjourned at the request of the learned counsel for the petitioner. Till 23.2.2017 the case has not seen the light of the day. On the said date, the case was adjourned at the request of the counsel for the respondent.

3. Meanwhile, as the petitioner has not paid the costs imposed on him and in the absence of any stay granted by this Court, the lower Court by

order dt.22.6.2015 has dismissed I.A. No.161 of 2014 for non-compliance with the conditional order passed by it. The petitioner filed I.A. No.381 of 2015 under Order IX Rule 9 of the Code of Civil Procedure, 1908 (CPC), for setting aside order dt.22.6.2015 in I.A. No.161 of 2014 and to restore the same to file. This application was dismissed by the lower Court by order dt.11.7.2016. Aggrieved by the said order, the petitioner filed C.R.P. No.4077 of 2016.

4. The facts narrated above would show that the petitioner has been indulging in vexatious litigation evidently to procrastinate the suit proceedings. As noted hereinbefore, instead of paying costs of Rs.2,500/ as a condition for reopening the evidence to enable him to cross-examine P.W.1, the petitioner has filed C.R.P. No.3637 of 2014 and did not succeed in securing an interim order. As a logical consequence of non-compliance with its conditional order, the lower Court has dismissed I.A. No.161 of 2014. The subsequent I.A., i.e., I.A. No.381 of 2015 for setting aside the dismissal order in I.A. No.161 of 2014, was also rightly dismissed by the lower Court.

5. It is a matter of concern that a money suit is kept pending for the last six years owing to the simple trick played by the petitioner. Though the petitioner could not secure stay of suit proceedings in his first revision petition, the lower court obviously has given itself in by the representation before it that the case is pending before the High Court, and went on adjourning the suit even in the absence of stay. It is not the case of the petitioner that he has no capacity to pay the costs of Rs.2,500/-. One can imagine that the expenses for filing two civil revision petitions including lawyer's fees in this Court would far outweigh the costs imposed by the lower Court. The discretion exercised by the lower Court in reopening the

evidence to enable the petitioner to cross-examine P.W.1 by imposing costs, by no means can be termed as arbitrary or unfair or unjust. Therefore, it is clearly evident that filing of these civil revision petitions was a tactical ploy by the petitioner to prolong the litigation and frustrate the efforts of the respondent – plaintiff to secure a money decree. This kind of attempts on the part of the litigants must be put down with heavy hand.

6. The procedural safeguards provided in the CPC to protect interests of bona fide litigants are being abused by the dishonest litigants to such an extent that they are proving to be an obstruction in dispensation of justice. The unscrupulous litigants, such as the petitioner, are exploiting, nay, are allowed to exploit the liberal provisions in the Code, such as Order IX Rule 9 and Order IX Rule 13. While unwittingly such provisions are proving to be a boon for such litigants, they have become a bane for persons approaching courts with bona fide claims and genuine grievances. The public criticism of courts for long pendency of cases overlooks the contributory role of litigants, ably advised and supported by some lawyers. The basic ingredient of integrity is expected of members of bar too, as much as it is expected of members of the bench. The chariot of administration of justice cannot move forward smoothly with the desired pace, if its wheels are deliberately clogged by delay tactics and unfair methods. The litigants and the lawyers representing them being equal partners in justice dispensation need to play a catalyst role, instead of playing a role of obstructionist, in propelling the caravan of justice to reach its destination of fulfilling the aspirations of millions of litigant public for whom judiciary is their last resort in pursuit of justice.

7. In the aforementioned facts and circumstances of the case, I do not find any merit in both the civil revision petitions and the same are accordingly dismissed with costs of Rs.5,000/- (Rupees five thousand only) each payable to the respondent within four weeks.

As a sequel to dismissal of the civil revision petitions, C.R.P.M.P. Nos.4952 of 2014 and 5282 of 2016 filed in the respective revisions petitions, shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

07-07-2017

bnr

Note: LR copies to be marked.
(B.O)
bnr

