

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CIVIL REVISION PETITION NOS.5237, 5273 & 5341 OF 2016

COMMON ORDER:

All these Civil Revision Petitions have arisen out of common order dated 29.08.2016 passed in I.A. Nos.1088, 1089 & 1090 of 2016 in O.S. No.95 of 2010 on the file of Senior Civil Judge, Proddatur, YSR Kadapa District, and hence these petitions are disposed of by this common order.

2. C.R.P. No.5237 of 2016 is filed by the petitioners/plaintiffs aggrieved by the order dated 29.08.2016 in I.A. No.1090 of 2016 in O.S. No.95 of 2010 on the file of Senior Civil Judge, Proddatur, YSR Kadapa District, whereunder the trial Court dismissed the petition filed by the petitioners for recalling P.W.1 to mark documents. C.R.P. No.5273 of 2016 is filed by the petitioners/plaintiffs aggrieved by the order dated 29.08.2016 in I.A. No.1088 of 2016 in O.S. No.95 of 2010, whereunder the trial Court dismissed the petition filed by the petitioners for reopening the suit. C.R.P. No.5341 of 2016 is filed by the petitioners/plaintiffs aggrieved by the order dated 29.08.2016 in I.A. No.1089 of 2016 in O.S. No.95 of 2010, whereunder the trial Court dismissed the petition filed by the petitioners for receiving some documents.

3. The petitioners are the plaintiffs, who filed O.S. No.95 of 2010 on the file of Senior Civil Judge, Proddatur, YSR Kadapa District, against the respondents/defendants for declaration of their right and title in respect of the plaint schedule property and for consequential permanent injunction. In that suit, admittedly evidence was completed and the matter was coming up for arguments since

18.11.2015. However, somehow, arguments could not be taken place. Thereafter, present petitions under revisions were filed by the petitioners/plaintiffs seeking permission of the Court to file certain documents through P.W.1. The documents sought to be marked as mentioned in I.A.No.1089 of 2016 are as follows:

1. Original Registered Partition Deed, dated 1.11.1955.
2. Registration Copy of Sale Deed, dated 13.11.1957.
3. Original Registered Sale Deed, dated 12.6.1968.
4. Original Registered Exchange Deed, dated 24.04.1972.
5. Land Ceiling Declaration Order in CC No.724/1975.

According to the petitioners, these documents are very much important to prove their title in the suit schedule property and they could not be filed during the trial because those documents were misplaced in their house and they could not be traced out in time and hence the delay.

4. The respondents/defendants contested the Interlocutory Applications. The trial Court dismissed the Interlocutory Applications by common order dated 29.08.2016 on the observations that the petitioners could not show sufficient cause for not filing the documents at the relevant time and the delay was beyond the imagination of a prudent man; the petitioners could have obtained certified copies and filed; the petitioners not stated the relevancy of documents sought to be marked. For the aforesaid and other reasons, the trial Court dismissed the three petitions filed by the petitioners/plaintiffs. Hence the instant Civil Revision Petitions.

5. Heard Sri Karri Murali Krishna, learned counsel for the petitioners and Sri V. Nitesh, learned counsel for the respondents.

6. The main plank of argument of learned counsel for the petitioners is that the documents sought to be marked are very much important for the purpose of proving the title of the plaintiffs in the suit and since the documents were misplaced they could not be filed during their evidence but however, the delay was neither willful nor wanton and unless an opportunity is given to the petitioners, they cannot be able to establish their title and thereby they would suffer irreparable loss.

7. Per contra, learned counsel for the respondents vehemently opposed the petitions and argued that if really the petitioners were of the opinion that the documents were very much required for proving title, they could have obtained another set of certified copies and filed within the time, but they did not do so, which it shows their laxity. Nextly he argued that the petitioners have not assigned any reasons as to how the documents sought to be marked are relevant to prove their title. In the suit, evidence was closed long back and the matter was coming up for arguments since long. The petitioners have been dragging the matter before the trial Court and there are no merits in the civil revision petitions.

8. The point for consideration is whether there are merits in the Civil Revision Petitions to allow?

9. It is a suit for declaration of title and for consequential permanent injunction in respect of Ac.8-00 cents of plaint schedule land. Hence, there is no need to emphasize that the valuable rights of both the parties are at stake in the suit.

10. Be that as it may, a perusal of the list of documents proposed to be filed would show that except Document No.5, other were registered documents. Therefore, as rightly argued by the learned counsel for the respondents, the petitioners could obtain certified copies of those documents, if earlier set of documents were misplaced. In that point of view, the delay is manifest. However, considering the fact that the valuable rights of the parties are at stake, an opportunity should be given to the petitioners to establish their rights. Hence revision petitions are allowed, but, in view of the delay being substantial one, on payment of costs to the respondents.

11. In the result, all the Civil Revision Petitions are allowed on the condition of the petitioners/plaintiffs paying costs of Rs.5,000/- (Rupees Five thousand only) to the respondents within two weeks from today and get ready in O.S.No.95 of 2010. The trial Court, on receipt of a copy of this order, shall fix a date for further evidence of P.W.1 and to adduce documents mentioned in I.A.No.1089 of 2016. The proposed documents shall be permitted to adduce in evidence subject to proof and relevancy. The respondents/defendants shall be afforded an opportunity to cross-examine P.W.1 with reference to the documents sought to be marked. The Trial Court is further directed to dispose of the suit on merits within three months from the date of closure of evidence.

As a sequel, miscellaneous applications pending, if any, in these Revisions shall stand closed.

U.DURGA PRASAD RAO,J

Dt: 27-01-2017
gbs