

HONOURABLE SRI JUSTICE P.NAVEEN RAO

CIVIL REVISION PETITION NO.5215 OF 2017

Date: 08.12.2017

Between:

Bhukya Thourya Nayak, s/o. Jagala Nayak,
Aged about 60 years, Occu: Agriculture,
R/o.H.No.4/99, Kankapaka Village,
Parvathagiri Mandal, Warangal Dist and others.

..... Revision Petitioners/petitioners/
defendants

and

Smt Banthu Sujatha w/o. late Narasimha Ramulu,
Aged about 33 years, occu: Agriculture,
r/o. Konkapka village, Parvathagiri Mandal,
Warangal district.

.....Respondent/respondent/
Plaintiff



The Court made the following:

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ORDER:

Heard Sri A.P.Venu Gopal, learned counsel for revision petitioners and Sri P.Pankaj Reddy, learned counsel for respondent.

2. Plaintiff filed O.S.No.1143 of 2011 on the file of V Additional Junior Civil Judge, Warangal, to grant permanent injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the plaintiff over the suit schedule property. Defendants filed I.A.No.686 of 2017 in the said suit seeking leave of the Court to receive two documents mentioned therein in support of their stand. By the order, against which this revision is filed, said I.A., was dismissed.

3. According to the defendants, the suit schedule property was sold by the husband of the plaintiff in favour of 1st defendant on 19.12.2005 and as consequence, possession was also delivered to them and thereafter defendants are in possession of the property. Specific plea was raised in the written statement filed by the defendants. In the cross-examination also, this issue was raised. However, in the cross-examination, plaintiff deposed that the said document is not valid and that signatures are not that of the husband of plaintiff and, therefore, no such sale transaction took place.

4. Having regard to this stand of the plaintiff, defendants wanted to present their evidence on the alleged sale deed dated

19.12.2005 and letter issued by the Mandal Revenue Officer dated 15.07.2015.

5. No doubt, as per the amended Order VIII Rule 1A(1) of Code of Civil Procedure, the evidence in support of the defendants has to be filed along with written statement. However, Rule 1A(3) of CPC vests discretion in the trial Court to permit the presentation of the documents subsequently, subject to relevancy of the documents, for proper adjudication of *lis* in the suit.

6. In the facts of this case, it cannot be said that there was unreasonable long delay on the part of the defendants in seeking to present the documents. As noted above, a specific plea was raised by the defendants in the written statement as well as in the cross-examination of plaintiff.

7. Having regard to these facts, the trial Court erred in not allowing the documents sought to be presented in evidence by the defendants. Therefore, Civil Revision Petition is allowed and the defendants are permitted to present the documents mentioned in I.A.No.686 of 2017 in evidence subject to relevancy and proof of the documents.

Miscellaneous petitions, if any, pending shall stand closed.
There shall be no order as to costs.

JUSTICE P.NAVEEN RAO

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