

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NOS.4920, 5063 AND 5065 OF 2017

COMMON ORDER

These revisions under Article 227 of the Constitution arise out of the common order dated 11.07.2017 passed by the learned I Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar, in I.A.Nos.358, 375 and 376 of 2017 in O.S.No.1470 of 2007. These IAs were filed by the plaintiffs under Order 18 Rule 17 CPC to recall P.W.1; under Section 151 CPC to reopen the plaintiffs' evidence; and under Order 7 Rule 14(3) CPC to receive additional documents, respectively. By the common order, the trial Court dismissed all the three IAs. Aggrieved thereby, the plaintiffs are before this Court.

Heard Sri S.Satyanarayana Moorthy, learned counsel for the petitioners-plaintiffs, and Sri V.Manohar Rao, learned counsel on caveat for the respondent-defendant.

Reopening of the suit and recall of P.W.1 was sought by the plaintiffs only to place on record the additional documents viz., the certified copy of Annexure Plan (Lay Out) dated 3rd Khurdad 1358 Fasli (1948) along with Annexure Plan and translation and the certified copy of the village map of Mansurabad dated 26.07.1957.

O.S.No.1470 of 2007 was filed for a permanent injunction restraining the defendant from dispossessing the plaintiffs from the suit property, an extent of 2,400 square yards in Plot No.2D in Sy.Nos.73, 74, 76, 77 and 78 of Chintalkunta, Saheb Nagar Khurd, Hayathnagar Mandal, Ranga Reddy District. Admittedly, the plaintiffs filed photocopies of the documents now sought to be produced, along with their plaint. As they had not filed certified copies thereof, they came up with the subject IAs seeking to make good the lapse.

In the affidavit filed in support of I.A.No.375 of 2017, the first plaintiff deposed to the effect that the evidence of the defendant was closed on 06.04.2017 and during the course of the trial, the plaintiffs could not produce some important documents – the certified copy of the Annexure Plan (lay out) dated 3rd Khurdad 1358 Fasli (1948) along with the Annexure Plan and translation and the certified copy of the village map of Mansurabad dated 26.07.1957. He stated that they had filed photocopies which were not marked as exhibits, being inadmissible in evidence. He further stated that they applied for certified copies of the same and accounted for the delay in obtaining them by claiming that due to re-organization of the districts and consequential relocating of files and offices etc., the delay occurred and the same was beyond their control.

The trial Court held that the plaintiffs had failed to explain the reason for the delay in filing the documents till the closure of evidence. Pointing out that the suit was of the year 2007, the trial Court opined that such a huge delay could not be excused to receive the documents. The trial Court further observed on merits that the documents in question were irrelevant and unnecessary.

Order 7 Rule 14 CPC deals with production of documents on which the plaintiff sues or relies. Sub-rule (1) thereof requires the plaintiff to enter such documents in a list and produce them in Court when the plaint is presented. Sub-rule (2) mandates that where any such document is not in the possession or power of the plaintiff, he shall state as to in whose possession or power it is, wherever possible. Sub-rule (3), which is relevant for the purposes of this case, states to the effect that the document which ought to have been produced in Court by the plaintiff when the plaint was presented but

was not so produced shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit. It is well settled that the trial Court, at the stage of considering an application by the plaintiff under Order 7 Rule 14(3) CPC, is not expected to go into the issue of admissibility or relevance of such documents. Leave would be granted under the said provision if the plaintiff has a reasonable explanation for not producing the documents in question at the time he presented the plaint and not otherwise.

In the case on hand, the only reason put-forth in the affidavit filed in support of I.A.No.375 of 2017 filed in the suit was that the certified copies could not be obtained due to the re-organization of the districts and the consequential displacement of offices and files. However, Sri S.Satyanarayana Moorthy, learned counsel, fairly concedes that such reorganization was only done in the year 2016.

There is no explanation whatsoever forthcoming from the plaintiffs as to what they were doing since the institution of the suit in the year 2007 till the year 2016. They could have as well obtained certified copies of the documents, photocopies of which were already filed by them with their plaint as they were relevant. Their failure to do so clearly shows utter negligence and carelessness on their part.

In that view of the matter, the finding of the trial Court that the delay on the part of the plaintiffs is fatal to their plea to receive these additional documents warrants no interference. Though the trial Court ought not to have gone into the issue of admissibility and relevance of the documents in question at this stage, the common order under revision does not warrant interference in the light of the sustainable finding on the other issue as to the delay on the part of the plaintiffs. As the prayers in the other two IAs were inter-linked

with this prayer, the common order, in its entirety, merits confirmation.

The civil revision petitions are therefore devoid of merit and are accordingly dismissed. Pending miscellaneous petitions in the CRPs, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

20th OCTOBER, 2017

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