

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.2051 OF 2017

ORDER

This civil revision petition under Article 227 of the Constitution arises out of the order dated 03.03.2017 passed by the learned IV Additional District Judge, Ranga Reddy District at L.B.Nagar, in I.A.No.161 of 2017 in S.O.P.No.827 of 2010. The said I.A. was filed by the petitioner association, the respondent in the O.P, under Order 8 Rule 1 CPC to receive certain documents by condoning the delay in their production. By the order under revision, the trial Court dismissed the I.A. Aggrieved thereby, the petitioner association is before this Court.

S.O.P.No.827 of 2010 was filed under Section 23 of the Andhra Pradesh Societies Registration Act, 2001, by the first respondent herein for a declaration that his expulsion from the petitioner association was illegal. Having filed its counter in the main O.P. in December, 2010, the petitioner association moved the subject I.A. in January, 2017 seeking to place on record certain documents. In the affidavit filed in support thereof, the recently elected Secretary of the petitioner association stated that he had gone through the record and felt that some documents need to be filed which were relevant and as they could not be filed at an early stage, having been misplaced in the office files and traced out recently, he sought leave to file them. He further stated that the delay in filing the documents was neither willful nor deliberate but for reasons beyond control.

In his counter, the petitioner in the S.O.P., the first respondent herein, pointed out that there was a delay of about 74 months in seeking to file documents after the filing of the counter in the main

O.P. and that no proper explanation had been put forth for the same except for a bald statement that the documents were misplaced.

Heard Sri Sharad Sanghi, learned counsel for the petitioner association. Despite service of notice, the first respondent herein, the petitioner in the O.P., did not enter appearance before this Court.

Perusal of the order under revision reflects that the trial Court found that no sufficient reason had been given to explain the long delay in the filing of the documents when the counter in the S.O.P. was filed as long back as in December, 2010. The trial Court accordingly held that there were no merits in the application and dismissed it.

Sri Sharad Sanghi, learned counsel, would assert that the documents sought to be filed are the register of the minutes of the petitioner association's general body meetings and three complaints received by the petitioner association against the first respondent herein. Sri Sharad Sanghi, learned counsel, would fairly concede that reference was made to the aforesaid three complaints in the counter filed by the petitioner association in December, 2010. He would also admit that reference was made therein to various general body meetings also and that the minutes of such meetings are now sought to be produced.

Order 8 Rule 1-A(1) CPC postulates that where the defendant bases his defence upon documents, he shall enter such documents in a list and produce them in Court when the written statement is presented by him. Order 8 Rule 1-A(3) CPC however provides to the effect that when a document which ought to have been produced by the defendant along with his written statement, but is not so produced, he shall not produce the same in evidence at the hearing of

the suit without the leave of the Court. When such leave of the Court is sought for belated presentation of documents by the defendant, he must necessarily explain as to why he was unable to produce the documents when he filed his written statement.

The Court must exercise discretion while dealing with an application for leave to file additional documents. Delay, by itself, may not constitute sufficient ground for denial of leave, as the endeavour of the Court must always be to decide the real controversy in issue. If the material sought to be produced has relevance to the issues involved in the suit and helps the Court determine the issues properly and effectually, the Court must exercise its discretion in favour of allowing such evidence [**G.P.R.HOUSING (P) LTD., HYDERABAD V/s. C.PRITHVI RAJ REDDY¹**].

However, each case must be decided on the strength of its own facts. When a petition is filed to receive additional documents which were not filed at the time of presentation of the written statement, the Court must exercise its discretion judiciously in deciding as to whether leave should be granted or not.

In the case on hand, it is an admitted fact that the documents now sought to be produced were referred to in the counter filed by the petitioner association in the O.P. as long as back in December, 2010. Obviously, such reference would have been made only if the documents were looked into at that point of time. That being so, to claim that the documents were misplaced in office files and came to light only recently to justify the present application, filed six years thereafter, hardly constitutes a valid excuse. On the face of it, the long delay on the part of the petitioner association in producing the

¹ 2014 (6) ALD 291

documents, which were well within its knowledge and which were available to it at the time of filing of the counter in the O.P. in December, 2010, is patent. The lame excuse offered for this delay is that these documents were misplaced but the same warrants outright rejection as the documents found mention in the counter filed in December, 2010. This Court therefore finds no error in the exercise of discretion by the trial Court in dealing with the subject I.A.

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

SANJAY KUMAR, J

4th AUGUST, 2017

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