

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION Nos.5784, 5785 and 5786 of 2017

COMMON ORDER:

These revision petitions, at the behest of the plaintiff in O.S.No.119 of 2009 on the file of the learned IV Additional District Judge, Kakinada, are directed against three separate orders dated 11.10.2017 of the trial Court dismissing the applications filed by the petitioner/plaintiff, primarily to call for a document which was marked as Ex.A4 in an earlier suit, O.S.No.36 of 1998, on the file of the same Court.

I.A.No.1447 of 2017 was filed by the petitioner/plaintiff to re-open the evidence of the plaintiff and C.R.P.No.5785 of 2017 relates to its dismissal. I.A.No.1448 of 2017 was filed by the petitioner/plaintiff to recall P.W.1 to mark the document which was sought to be called for and C.R.P.No.5786 of 2017 arises out of its dismissal. I.A.No.1449 of 2017 was filed under Order 13 Rule 10 CPC to send for the Khararunama dated 14.01.1980, which was marked as Ex.A4 in O.S.No.36 of 1998 on the file of the same Court and which had been consigned to the record room. C.R.P.No.5784 of 2017 pertains to the dismissal of this I.A.

As the Court below passed a reasoned order in I.A.No.1449 of 2017 and dismissal of the other two I.As. was consequential thereto, it would be appropriate to deal with C.R.P.No.5784 of 2017 in the first instance.

Sri S.V.S.S.Sivaram, learned counsel for the petitioner, would contend that merely because the defendants in the suit filed a counter asserting that the Khararunama sought to be called for was an unstamped and unregistered document, the Court below blindly accepted the same and disallowed the plea of the petitioner/plaintiff.

However, Sri S.Subba Reddy, learned counsel on caveat for the first respondent/defendant, would point out that there was no rebuttal of the

counter averment to the effect that the document in question was an unstamped and unregistered document.

Perusal of the order in I.A.No.1449 of 2017 reflects that the Court below did not base its decision on this aspect. Having perused the record, the Court below found that the suit was of the year 2009 and despite completion of evidence by both sides, the matter was continuously suffering adjournments for final arguments. The Court below recorded that adjournments in this regard had been granted for more than six months and at that stage, the petitioner/plaintiff came up with the subject I.As. The Court below also noted that not even a copy of the document in question was produced and a bald plea was advanced to call for the said document without demonstrating its relevance and admissibility.

Sri S.V.S.S.Sivaram, learned counsel, does not dispute the fact that the subject I.As. were filed when the suit was ripe for arguments. Further, he admits that the subject document was drawn up by and between the parties to the suit and that they were well aware of the same. If that be so, no valid explanation is forthcoming as to why the petitioner/plaintiff did not take steps earlier to get the subject document placed on record in the present suit and waited till the stage of arguments.

Be it viewed from any angle, lack of *bonafides* on the part of the petitioner/plaintiff in filing the subject I.As. is manifest. This Court therefore finds no error in the orders under revision.

The civil revision petitions are accordingly dismissed. Pending miscellaneous petitions, if any, shall stand dismissed. No order as to costs.

JUSTICE SANJAY KUMAR

3rd November, 2017
PGS