

HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION No. 6269 of 2017

ORDER:

The present application came to be filed under Article 227 of the Constitution of India, aggrieved by the order dated 07.11.2017 passed in I.A.Nos. 1114 of 2017 and 1116 of 2017 in O.S.No. 151 of 2011, on the file of the Principal Junior Civil Judge, Peddapuram, East Godavari district, wherein the application filed by the petitioners to reopen the suit and to receive the Aadhar certificate and also to recall PW1, came to be dismissed.

2. The present C.R.P is filed against the order passed in I.A.Nos. 1114 of 2017 and 1116 of 2017 in O.S.No. 151 of 2011 to declare the decree in O.S.No. 78 of 2003 on the file of the Principal Junior Civil Judge, Peddapuram dated 28.09.2004 in respect of the plaint schedule property, as null and void, and not binding on the plaintiffs, as it was obtained by playing fraud. When the present suit was posted for arguments, I.A.Nos. 1114 of 2017 and 1116 of 2017 came to be filed on the ground that the petitioners herein were advised to get some more documents to prove that the defendant is 'Bandi Peeturu' but not 'Batchala Peeturu'. It is said that previously, the plaintiffs could not secure the proposed documents due to lack of information and knowledge. It is pleaded that as the certificate issued by the Village Revenue Officer is secured now, the present application is filed. It is

further stated that there is no willful negligence on the part of the petitioners for not adducing the proposed evidence at the earliest point of time.

3. A counter came to be filed disputing the contents of the petition filed in support of the said I.As. It is said that though the petitioners were aware of the dispute between the parties with regard to the surname of the respondent, no effort was made till the case is posted for arguments. It is stated that after the entire trial is over and when the case is posted for arguments, the present application came to be filed, only with a view to drag the proceedings. It is further pleaded that the documents now produced are not valid, and they are not necessary to prove the plea of the petitioners.

4. After perusing the material on record, the trial court rejected the suit. Challenging the same, the present C.R.P came to be filed. As seen from the record, the entire trial is over and the matter was posted for arguments on 26.02.2017. On that day, the plaintiffs sought time, as a result of which it was adjourned to 30.10.2017, on which day the present application came to be filed.

5. The application filed by the petitioners shows that the petitioners now want to place on record the certificate issued by the Village Revenue Officer dated 03.02.2017, when the photocopy of the ration cards issued in 2017 and the Aadhar cards were

obtained on 30.10.2011. All these documents were obtained subsequent to the filing of the suit.

6. Be that as it may, it is to be noticed that the present application came to be filed after the case is posted for arguments. In the application filed by the petitioners, it was mentioned that they were advised to obtain documents and as such, they obtained the same and filed the present application. No reasons are given as to why no steps were taken to file these documents at the earliest point of time, more so, when the argument of the petitioners herein, was that there was a dispute with regard to the surname of the respondent.

7. In view of the above circumstances, and having regard to the judgments of this Court in **LAXMIPRIYA EXPORTS (INDIA) PVT. LTD., AND OTHERS v. MALINGAM MILLS LTD. AND ANOTHER<sup>1</sup>**, wherein it is held that at the time of arguments, petitions for reopening the suit, receiving documents and recalling a witness should not be entertained.

9. In view of the ratio laid down by this Court in the judgment referred to above, and having regard to the conduct of the petitioners in filing this application after the case is posted for arguments, I am not inclined to accept the request of the petitioners.

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<sup>1</sup> 2016 (2) ALT 537

10. Accordingly, C.R.P is rejected. Miscellaneous petitions pending, if any, shall stand closed. No costs.

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JUSTICE C. PRAVEEN KUMAR

24.11.2017  
DMG

