

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

CIVIL REVISION PETITION Nos. 7152 AND 7156 OF 2017

Between:

Uppu Hymavathi Mahila Sangam,
Registered Society bearing No. 11-58/59,
Rep. by its President M.Anjana Devi,
W/o late D.K.Sarma, 55 years,
Housewife, R/o D.No. 1-2-25,
Gandhinagaram, Anakapally,
Visakhapatnam District and others

... Petitioners

VERSUS

Sri Vidyaniketan Public School,
Rep. by its Correspondent,
D.No. 1-2-33, Ramalayam Street,
Gandhinagaram, Anakapalle, and others

... Respondents

Date of Order Pronounced : 22-12-2017

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

1. Whether Reporters of Local newspapers
may be allowed to see the order? Yes/No
2. Whether the copy of order may
be marked to Law Reporters/Journals? Yes/No
3. Whether His Lordship wishes to see the
Fair copy of the order? Yes/No

C.V.NAGARJUNA REDDY, J.

***THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY**

+ C.R.P.Nos. 7152 AND 7156 OF 2017**%Dated: 22-12-2017**

Uppu Hymavathi Mahila Sangam,
Registered Society bearing No. 11-58/59,
Rep. by its President M.Anjana Devi,
W/o late D.K.Sarma, 55 years,
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Gandhinagaram, Anakapalle, and others ... Respondents

!Counsel for the petitioners : Ms. Madhavi Priya Mantena**^Counsel for the respondents : --****<GIST :****>HEAD NOTE :****?Cases referred :**

1. 2015 (1) ALT 330
2. 2016 (1) ALT 36

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION Nos. 7152 AND 7156 OF 2017**DATED 22ND DECEMBER, 2017**

Between:

Uppu Hymavathi Mahila Sangam,
Registered Society bearing No. 11-58/59,
Rep. by its President M.Anjana Devi,
W/o late D.K.Sarma, 55 years,
Housewife, R/o D.No. 1-2-25,
Gandhinagaram, Anakapally,
Visakhapatnam District and others Petitioners

AND

Sri Vidyaniketan Public School,
Rep. by its Correspondent,
D.No. 1-2-33, Ramalayam Street,
Gandhinagaram, Anakapalle, and others ... Respondents

Counsel for the petitioners : Ms. Madhavi Priya Mantena

Counsel for the respondents : --

THE COURT MADE THE FOLLOWING

COMMON ORDER:

These two civil revision petitions have been filed against common order dated 17-10-2017. C.R.P.No. 7152 of 2017 is filed *qua* I.A.No. 1226 of 2017 filed for re-opening the petitioners' evidence. C.R.P.No. 7156 of 2017 is filed *qua* I.A.No. 1227 of 2017 filed for re-calling P.W.1 to mark the proposed documents.

2. The petitioners filed O.S.No. 100 of 2011 on the file of the Court of X Additional District & Sessions Judge, Visakhapatnam at Anakapalle (for short, 'the Court below') *inter alia* for declaration of title. After the evidence was closed and the suit was coming up for arguments, they have filed the aforementioned I.As. along with I.A.No. 1228 of 2017 for receiving the proposed documents numbering two. The said applications having been dismissed by the Court below, the petitioners filed these revision petitions.

3. In the affidavit filed in support of these applications, petitioner No. 3 has stated that while preparing for arguments, her counsel advised her to bring bylaws of petitioner No. 1, that she also showed the certificate issued by Municipal School Headmaster which was already confronted to D.W.1 in the cross-examination and that therefore her counsel advised her to file the same. It is further

averred that some of the records of petitioner No. 1 were held up with the past executive members and that they were readily not available with her and as such, she is advised to bring the said record or take steps for production of the same.

4. Under clause (1) of Rule 14 of Order VII of the Code of Civil Procedure, 1908, where a plaintiff sues upon a document or relied upon document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in Court when the plaint is presented by him and shall, at the same time deliver the document and a copy thereof, to be filed with the plaint. Under clause (3) thereof, a document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit. From the aforementioned statutory provisions, it is evident that a duty is cast upon the plaintiff to enter every document on which he sues and to produce the same in Court along with the plaint. Thus, clause (3) of Rule 14 contains a statutory embargo against filing such document without leave of the Court. It is settled by a catena of judgments that

the Court cannot grant leave to file documents at a belated stage for the mere asking. The plaintiff, who seeks to file documents at such stage, has to satisfy at least two conditions, namely; (1) the documents are necessary for deciding the real controversy in the suit and (2) sufficient cause for not producing the documents along with the plaint existed.

5. In ***G.P.R.Housing Private Limited Vs. C.Prithvi Raj Reddy***¹, this Court held:

"Order VII Rule 14 of the Civil Procedure Code, 1908 enjoins upon the plaintiff to enter all documents, upon which he relies in a list, and produce them in the Court when the plaint is presented. However, Sub-Rule (3) thereof vests power in the Court to grant leave to file the documents at a later stage but such power has to be exercised only upon the party satisfying the Court that, for convincing reasons, those documents could not be filed earlier. There can be no hard and fast rule for the Court to exercise discretion while granting leave under Sub Rule (3) of Rule 14. The Courts must always exercise sound discretion while dealing with the applications for leave to file additional material. Mere delay by itself would not constitute the sole ground for rejecting the leave. If the facts and circumstances of the case justify non-filing of the documents at an earlier stage, the Court will not reject the application for leave only on the ground of delay. In the ultimate analysis, the endeavour of the Court must always be to decide the real controversy in issue. If the material sought to be produced has relevance on the issues involved in the suit and helps the Court to determine the issues properly and effectually, the Court must exercise its discretion in favour of allowing such evidence."

¹ 2015(1) ALT 330

In ***Lukka Srinivasa Rao @ Venkateswarlu Vs. Lukka Sivaiah***², this Court held:

"As regards the proposition of law viz., that Order VII Rule 14(1) C.P.C., enjoins upon the plaintiff to file all his documents along with the plaint and that unless he puts forth convincing reasons, the Court cannot allow him to file the documents at a later stage, the same is unexceptionable. Indeed, this Court has reiterated this legal position in both the judgments cited by learned Counsel, as referred to supra. However, whether a party has put forth sufficient reasons for filing the documents at a belated stage or not, depends upon the facts of each case and no hard and fast rule can be laid down in that regard."

6. The reasons given by the petitioners as referred to above do not satisfy the twin requirements discussed above. Though a vague averment was made in the affidavit that some of the documents remained with the past executive members, it is not specifically pleaded that the so called bylaws and the certificate proposed to be filed also formed part of the said documents. It is not in dispute that both the documents were in existence much prior to the filing of the suit. The fact that they were not filed along with the plaint despite their existence shows that the petitioners were not diligent in filing relevant documents. Moreover, the petitioners failed to explain the relevancy of the proposed documents in determining the real

² 2016 (1) ALT 36

controversy in the suit. Having allowed the evidence to be closed, the petitioners cannot be permitted to wakeup at their leisure and seek to re-open the evidence purportedly on the basis of the advice given by their counsel.

7. For the aforementioned reasons, I do not find any jurisdictional error in the order of the Court below in dismissing the I.As.

8. The civil revision petitions are accordingly dismissed.

9. As a sequel to dismissal of the civil revision petitions, C.R.P.M.P.Nos. 9194 and 9198 of 2017 shall stand dismissed as infructuous.



C.V.NAGARJUNA REDDY, J.

Date: 22-12-2017.

Note: L.R. Copies to be marked.

B/O

JSK