

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P. Nos.2963, 2983 & 2989 of 2016

COMMON ORDER:

The revision petitioners in the present Civil Revision Petitions are common in respect of three different complaints, whereas the revision respondents in three Civil Revision Petitions maintained the respective suits in O.S.Nos.37, 43 and 39 of 2011, which are pending on the file of the Principal Junior Civil Judge, Srikalahasthi. The aforesaid suits are coming for the evidence of defendants. In the course of defendants' evidence, the defendants filed the interlocutory applications to issue summons to the proposed witnesses to give evidence with reference to the suit schedule property bearing Survey Nos.225/ 1 & 225/ 2 situated at Gajulapelluru Village in Buchinaidu Kandriga Mandal. The names of witnesses mentioned as (i) V.Veeraswamy, Ex-Tahsildar, Thottambedu Mandal and (ii) Vijaya Kumar, Village Revenue Officer, Gajulapelluru Village. The said applications were opposed by the respective sole plaintiff saying the present Tahsildar of Buchinaidu Kandriga Mandal was already examined on behalf of the plaintiff as PW4 and gave evidence and in his evidence 1(B) Namuna and No.3 Adangal/ Pahani were marked as exhibits A7 & A8 on behalf of the plaintiff's side and thereby, there is no necessity of examining the

Ex-Tahsildar and Village Revenue Officer on behalf of the defendants by summoning them. The lower Court dismissed the applications in I.A.No.776/ 2016 in O.S.No.37/ 2011 (C.R.P.No.2963/ 2016), I.A.No.775/ 2016 in O.S.No.43/ 2011 (C.R.P.No.2983/ 2016) and I.A.No.777/ 2016 in O.S.No.39/ 2011 (C.R.P.No.2989/ 2016) vide docket orders dated 06.06.2016.

2. The contentions in the grounds of respective Civil Revision Petitions are that the lower Court gravely erred in not considering the factum of what PW4 deposed and the same is different from the proposed witnesses going to be examined and it should have been considered to summon the witnesses sought for by the defendants and the impugned dismissal orders of the lower Court are unsustainable and are liable to set aside. Whereas, it is the submission of the learned counsel for the respective revision respondent-plaintiff that the present Tahsildar is examined with reference to the revenue record and there is no necessity of examining the proposed witnesses, one of them is the Ex-Tahsildar and the other one is the Village Revenue Officer, much less to issue summons to them under Order 16 Rule 1 C.P.C. and they cannot depose anything better than what PW4 deposed and it tantamounts to duplication with no purpose and the present Civil Revision Petitions are filed only to drag on the matter and the same are liable to be dismissed.

3. Heard both sides and perused the material on record.
4. Merely because the existing Tahsildar examined as PW4 on behalf of the plaintiff even with reference to 1(B) Namuna and No.3 Adangal/ Pahani, which were marked as exhibits A7 and A8 respectively, it will not prevent the defendants when they choose to examine the earlier Tahsildar and the Village Revenue Officer, if at all on any factum from their deposing that too when sought for with reference to the suit schedule property only and not beyond.
5. Having regard to the above, the dismissal of applications by the lower Court is unsustainable and it is even premature for the Court before the deposition of the witness concerned as what he should depose and what facts to be elicited. No doubt, at the time of examination of the proposed witnesses after summoning, the Court can definitely ascertain the relevancy and admissibility including under Section 136 of the Evidence Act before recording any evidence of that witness even the relevancy and admissibility in relation to the core of *lis*.

With the above observations these Civil Revision Petitions are allowed by setting aside the orders, dated 06.06.2016, in I.A.No.776/ 2016 in O.S.No.37/ 2011 (C.R.P.No.2963/ 2016), I.A.No.775/ 2016 in O.S.No.43/ 2011

(C.R.P.No.2983/ 2016) and I.A.No.777/ 2016 in O.S.No.39/ 2011 (C.R.P.No.2989/ 2016) directing the lower Court to issue summons to the proposed witnesses and proceed with the suits as early as possible. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

04.01.2018
MVA

