

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.250 OF 2018

ORDER:

1 This Civil Revision Petition is filed under Article 227 of the Constitution of India aggrieved by the order dated 10.01.2018 passed in I.A.No.8 of 2018 in O.S.No.191 of 2008 on the file of the Court of the Junior Civil Judge, Wanaparthy.

2 Heard the learned counsel for the petitioners and respondents and perused the record.

3 A perusal of the record reveals that the petitioners herein have filed O.S.No.191 of 2008 on the file of the Court of the Junior Civil Judge, Wanaparthy for declaration and mandatory injunction in respect of the suit schedule property. After completion of chief examination of D.W.5, the counsel for the plaintiffs requested time in order to get necessary documents to cross examine D.W.5. The present Tahsildar was examined as D.W.7. During cross examination the document in question i.e. map was shown to D.W.7 for the purpose of confrontation, which D.W.7 denied.

4 A perusal of the record further reveals that after completion of arguments, the petitioners have filed I.A.No.8 of 2018 for reopening the matter for the purpose of making of the map. A perusal of the record reveals that the map in question was filed along with the suit. But for the reasons best known to them, the plaintiffs did not choose to mark the map as a document through them. The document purported to have been issued by the MRO was attested by the Executive Engineer of Panchayat Raj Department. The document sought to be marked is not a public document. During pendency of the suit, the plaintiffs have not taken any steps to call for the original

of the map to substantiate their case. Even though the map is marked, the same may not help the plaintiffs to establish their title over the suit schedule property.

5 In a suit for declaration, the plaintiff may succeed or fail basing on the strength or weakness of his case. But the plaintiff is not entitled to the relief of declaration basing on the laches or lacunae on the part of the defendant.

6 This Court carefully perused the affidavit filed in support of the petition. No reasons, much less cogent and convincing reasons, are mentioned in the affidavit for non-marking of the said document during the plaintiffs' side evidence. Admittedly, the matter was posted for judgment. At that stage, the possibility of filing this type of petitions, in order to procrastinate the matter, cannot be ruled out completely. The trial court has considered the material on record in right perspective and dismissed the petition. I am in complete agreement with the findings recorded by the trial court. There is no illegality, irregularity or impropriety in the order passed by the trial court, which warrants interference of this court while exercising jurisdiction under Article 227 of the Constitution of India.

7 In the result, the Civil Revision Petition is dismissed. No order as to costs. As a sequel, miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand dismissed.

T.SUNIL CHOWDARY, J

Date: June 18, 2018
Kvsn