

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NOS.1297, 1318, 1319
AND 1320 OF 2018

COMMON ORDER

The petitioner in these four civil revision petitions, under Article 227 of the Constitution, is the plaintiff in O.S.No.108 of 2016 on the file of the learned V Additional Junior Civil Judge, Kukatpally at Miyapur, Ranga Reddy District. The said suit was filed by her for a perpetual injunction restraining the defendant from interfering with her possession over the suit schedule property, viz., an extent of 388 square yards in Plot No.271 in Sy.No.52 of Gachibowli Village, Serilingampally Mandal, Ranga Reddy District. Therein, the respondent-defendant filed I.A.No.888 of 2016 (renumbered as I.A.No.355 of 2017) under Order 8 Rule 1A(3) CPC to receive additional documents in evidence, viz., (1) agreement of sale dated 21.12.1989 executed by G.Suresh in favour of Mohammed Abdul Basith, (2) letter addressed by Yameen Alladin to show that he was a witness to the said agreement of sale dated 21.12.1989, (3) complaint dated 27.09.2016 given by G.Suresh to the Station House Officer, Raidurgam Police Station, along with the postal receipt dated 27.09.2016, (4) membership fee receipt dated 04.11.2007 evidencing payment of such fee by the defendant to the Diamond Hills Welfare Association, and (5) letter dated 29.05.2015 addressed by the General Secretary, Diamond Hills Welfare Association, to the Station House Officer, Raidurgam Police Station.

Thereupon, the petitioner-plaintiff filed I.A.Nos.462, 467, 468 and 469 of 2017 in the suit, from which the present civil revision petitions arise. I.A.No.462 of 2017 was filed by her under Order 19 Rule 2 CPC to summon the respondent-defendant for the purpose of cross-examination

to elicit the truth or otherwise of the statements made by him in the affidavit filed in support of I.A.No.355 of 2017. I.A.Nos.467, 468 and 469 of 2017 were filed by her under Order 16 CPC to summon Yameen Alladin, G.Suresh and the stamp vendor for giving evidence as to the truth or otherwise of the documents sought to be introduced.

In the first instance, by separate docket orders dated 14.12.2017, the trial Court allowed all four I.As. on payment of batta for summoning the proposed witnesses. Therein, the trial Court recorded the contention of the petitioner-plaintiff that the additional documents sought to be filed in evidence by the respondent-defendant were created with a *malafide* intention and to support a fraudulent claim. Learned counsel appearing for the respondent-defendant however stated that she had no objection to the petitions being ordered as the documents filed by her client were genuine and true documents. Thereupon, the trial Court opined that the facts which would be elicited during the exercise would help the Court to come to a just conclusion and accordingly directed payment of batta for summoning the proposed witnesses.

The petitioner-plaintiff claims that she deposited the process fee as directed by the trial Court. At that stage, on 18.01.2018, the respondent-defendant withdrew his petition in I.A.No.355 of 2017 (old I.A.No.888 of 2016) to receive these additional documents.

Having permitted such withdrawal, the trial Court then passed individual docket orders dated 18.01.2018 in the four I.As. filed by the petitioner-plaintiff, opining that as I.A.No.355 of 2017 was not pressed, the subject I.A. were infructuous and accordingly dismissed them. Aggrieved thereby, the petitioner-plaintiff filed these revision petitions.

Heard Sri C.Hanumantha Rao, learned counsel representing Sri I.Venkata Satyanarayana, learned counsel for the petitioner-plaintiff, and Sri N.Sreedhar Reddy, learned counsel on caveat for the respondent-defendant.

Significantly, the order dated 18.01.2018 dismissing I.A.No.355 of 2017 as withdrawn is not subjected to challenge. Therefore, once that order attained finality, the additional documents sought to be adduced in evidence thereunder no longer figure in the picture. When those documents do not fall for consideration in the subject suit, no purpose would be served by the trial Court in going through the exercise of examining witnesses in connection with those documents. This Court therefore finds no irregularity in the trial Court opining that the subject I.As. were rendered infructuous as the petition filed to receive the additional documents in evidence itself stood withdrawn.

Sri C.Hanumantha Rao, learned counsel, would however contend that the respondent-defendant cannot seek to introduce fabricated documents so as to support his case and then back out when the petitioner-plaintiff took steps to reveal the falsity of his claims.

Fabrication of false evidence for the purpose of a judicial proceeding is a penal offence, but a separate procedure is prescribed for the same. It is not open to the petitioner-plaintiff who alleges fabrication of evidence to seek an enquiry thereunto in the suit, when the alleged fabricated evidence no longer figures for consideration in the said suit.

On the above analysis, this Court finds no grounds to interfere with the docket orders dated 18.01.2018 passed by the trial Court dismissing all four I.As. as infructuous. The same shall however not preclude the petitioner-plaintiff from taking appropriate measures in accordance with

law, if so advised, with regard to her complaint of fabrication of evidence by the respondent-defendant.

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

SANJAY KUMAR, J

12th APRIL, 2018
PGS

