

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

C.R.P. No.1487 of 2018

ORDER:

This Civil Revision Petition is filed by the petitioner/plaintiff aggrieved by the order dated 27.02.2018 in I.A.No.82 of 2018 in O.S.No.238 of 2006 passed by the Principal Junior Civil Judge, at Kalwakurthy, dismissing the petition filed by the petitioner/plaintiff under Section 151 CPC to reopen the case for adducing additional evidence of PW.1.

2) The petitioner/plaintiff filed the suit for declaration of title and perpetual injunction against respondents/defendants over the suit plot No.1-153/1, to an extent of 675 sq.yards in first ward (presently 3rd ward), Veljal Village, Talakondapally Mandal, Mahabubnagar District, wherein when the matter was coming up for arguments, the petitioner filed I.A.No.82/2018 seeking to reopen the case for adducing additional evidence of PW.1 for marking Gram Panchayat revision register of the year 1991 and minute's book of Gram Panchayat Velijal of the year 2006 proceedings dt.18.04.2006. It is submitted that during the chief-examination of DW.1, Ex.B13—extract of revision register was exhibited and the said document was produced before the Court by suppressing the full copy of the same. Ex.B13 contains 22 columns out of which only 9 columns reflected in it and the remaining columns of the said register are

very crucial as they would reveal the year of the register and also determine whether the said register was tampered.

3) The respondents/defendants opposed the said petition *inter alia* contending that the evidence of PW.1 was closed on 17.11.2016 and defendants evidence was also closed. The plaintiff's counsel had cross-examined DW.1 at length and the G.P revision extract, minutes book of Veljal and proceedings dt.18.04.2006 are created by plaintiff in collusion with Panchayat Secretary with antedates. It is contended that as the said documents are in the possession of plaintiff, nothing prevented him to file the same and confront to DW1 at the time of cross-examination. Hence the instant petition which is filed only to drag on the matter, may be dismissed.

4) The Trial Court dismissed the petition on the main observation that petition is filed at a belated stage when the matter was coming up for arguments and further inspite of plaintiff claiming that he holds the copy of Ex.B.13, which is a full document, he did not produce the said document during his evidence or during the evidence of defendants and came up with the said document only during the course of arguments and no cogent reason was given for such an inordinate delay.

5) Heard both sides.

6) The point for determination is:

“Whether there are merits in the CRP to allow?”

7) **POINT**: As rightly observed by the Trial Court, in the affidavit in I.A.No.82/2018, the plaintiff only mentioned that he obtained copy of Ex.B.13 but inadvertently he did not give the document to his counsel. This contention of the plaintiff cannot be countenanced. Even assuming that by mistake he did not produce the said document during his evidence, however, after the defendant filed Ex.B.13, which allegedly contained 9 columns instead of 22 columns as per Gram Panchayat revision register, the plaintiff ought to have showed diligence and confronted the document available with him during the cross-examination. He did not do so and allowed the defendants evidence to be completed. Law will not come to the rescue of those who slumber over their rights. In similar circumstances, the Apex Court in the decision reported in *M/s. Bagal Construction through its Proprietor Lalit Bagai v. M/s. Gupta Building Material Store*¹ cited by learned counsel for respondents, observed thus:

“Para 12: After change of various provisions by way of amendment in the Code of Civil Procedure, it is desirable that the recording of evidence should be continuous and followed by arguments and decision thereon within a reasonable time. This Court has repeatedly held that courts should constantly endeavour to follow such a time schedule. If the same is not followed, the purpose of amending several provisions in the Code would get defeated. In fact, applications for adjournments, reopening and recalling are interim measures, could be as far as possible avoided and only in compelling and acceptable reasons, those applications are to be considered. We are satisfied that the plaintiff has filed those two

¹ AIR 2013 SC 1849

applications before the trial Court in order to overcome the lacunae in the plaint, pleadings and evidence. It is not the case of the plaintiff that it was not given adequate opportunity. In fact, the materials placed show that the plaintiff has filed both the applications after more than sufficient opportunity had been granted to it to prove its case. During the entire trial, those documents have remained in exclusive possession of the plaintiff, still plaintiff has not placed those bills on record. It further shows that final arguments were heard on number of times and judgment was reserved and only thereafter, in order to improve its case, the plaintiff came forward with such an application to avoid the final judgment against it. Such course is not permissible even with the aid of Section 151 Code of Civil Procedure.”

8) Thus having found no merits, this Civil Revision Petition is dismissed. No costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 26.06.2018

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