

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION Nos 1863, 1864 and 1875 of 2018

COMMON ORDER:

These three Revisions arose out of the same suit between the same parties. Therefore, they are being disposed of by this common order.

2. Petitioners in all these Revisions are plaintiffs in the suit. They filed the suit for a perpetual injunction against respondent Nos.1 to 3.

3. After the matter was posted for arguments, respondents filed I.A.No.403 of 2017 under Order 18 Rule 17 C.P.C. to recall the petitioners for marking of documents; and I.A.No.402 of 2017 to reopen the evidence for marking the documents, contending that certain documents which had been filed along with written statement were not marked during the course of trial by oversight though they were marked in the interim injunction application.

4. The trial Court dismissed the same on 28-08-2017, but on Revisions in C.R.P.Nos.5444 & 5449 of 2017 being filed assailing the said orders, this Court allowed the Revisions on 23-01-2018, set aside the orders passed by the trial Court and gave an opportunity to the petitioners to mark those documents in the evidence of petitioners by recalling D.W.1.

5. After the said Revisions were allowed, respondent Nos.1 and 2 again filed I.A.No.57 of 2018 under Order 8 Rule 1(3) C.P.C. to

condone the delay in filing the documents appended in a list and to receive the same, I.A.No.58 of 2018 to recall D.W.1 to mark the said documents and I.A.No.59 of 2018 to reopen the case on behalf of D.W.1 for the purpose of marking of documents.

6. In support of these applications, it is contended that copy of 1B register in respect of the subject land was obtained on 28-06-2013 and a representation of the petitioners to the then Tahsildar resulted in a notice given to 1st respondent under Section 3 of the A.P. Assigned Lands (Prohibition of Transfer) Act, 2007; that these documents were handed over to the previous counsel to produce them in the Court, but he misplaced them as they were mixed up in other files; and on 11-02-2018 he handed over the same after tracing them.

7. These applications were opposed by the petitioners contending that after the matter was posted for arguments, these applications had been filed and the 1st respondent was dragging the matter endlessly by filing repeated applications and the document such as notice issued by Tahsildar, has no relevance to the suit. It is also contended that the said notice issued by Tahsildar was created and has no basis.

8. By orders dt.06-03-2018, the Court below allowed all the three applications.

9. Assailing the same, these Revisions are filed.

10. Learned counsel for petitioners/plaintiffs contended that the Court below ought not to have allowed these applications without

1st respondent furnishing any valid reason for the delay in filing the same; in any event, having obtained copy of the 1B register on 28-06-2013, much prior to the conclusion of 1st respondent's evidence on 17-11-2016, and having kept quiet till February, 2018, the 1st respondent cannot be allowed to file applications at the stage of arguments, and this causes serious prejudice to the petitioners.

11. Sri T.G.Prasad Reddy, learned counsel appearing for respondent Nos.1 and 2 supported the orders passed by the Court below.

12. Under Order 8 Rule 1-A C.P.C., documents which were not filed originally by a defendant along with written statement cannot be received without the leave of the Court at a later point of time.

13. Admittedly, the suit is of the year 2006 and at the instance of the 1st respondent, this Court had permitted reopening of his evidence, recalling him as a witness and granted him an opportunity to file some documents by order dt.23-01-2018 in C.R.P.Nos.5444 and 5449 of 2017. At that point of time also no mention has been made about the documents now sought to be marked again by reopening the suit and by recalling D.W.1.

14. The suit being one for injunction, possession of the petitioners on the date of filing of the suit is a relevant factor to be taken into.

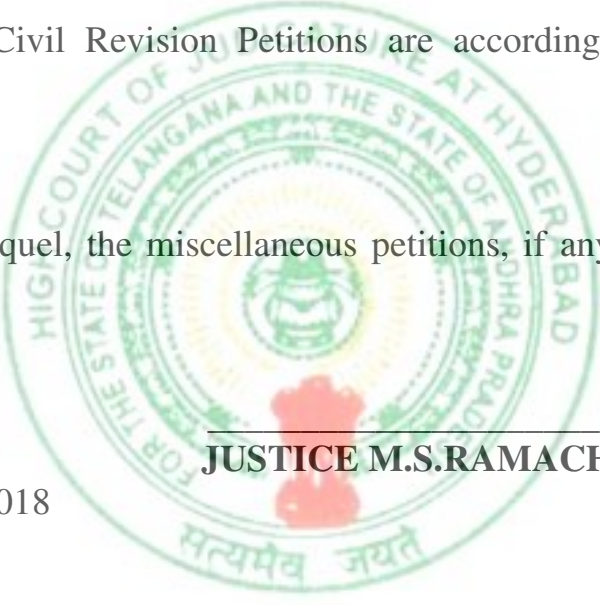
15. Documents obtained long afterwards during the pendency of the suit and which had not been referred to in the written statement of

the 1st respondent and had not been filed during the course of evidence of 1st respondent, cannot be permitted to be filed at a later point of time on the pretext that the counsel misplaced them.

16. I am therefore of the opinion that the Court below was not correct in allowing the three I.As. Therefore, the orders dt.06-03-2018 in I.A.Nos.57, 58 and 59 of 2018 in O.S.No.39 of 2006 of the I Additional Junior Civil Judge, Chittoor are set aside and the said I.As. are dismissed.

17. These Civil Revision Petitions are accordingly allowed. No costs.

18. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.



JUSTICE M.S.RAMACHANDRA RAO

Date: 03-08-2018
Vsv