

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

C.R.P.No.2019 of 2018

ORDER

The petitioner/plaintiff filed this revision under Article 227 of the Constitution of India, questioning the order dated 22.03.2018 passed in I.A.No.275 of 2017 in O.S.No.6 of 2008 by the I Additional District Judge, Kurnool.

2. Respondents 1 to 3/defendants 1 to 3 filed I.A.No.275 of 2017 under Order VIII Rule 14 and under Section 151 CPC to receive the petition schedule mentioned documents as evidence on their behalf in the suit after condoning the delay in filing them. The said documents are extracted as under:

1. Office copy of the letter dated 15.06.2017 submitted to the Zonal Manager, APIIC, Kadapa, for information and copies made under the provisions of the Right to Information Act.
2. Postal acknowledgment.
3. Original letter of the Zonal Manager, APIIC dated 25.07.2017 along with enclosed documents (total-12 sheets)
4. Attested copy of current account pay-in-slip of Andhra Bank, dated 16.07.2007.
5. Original written endorsement dated 25.07.2007 given by P. Kesanna s/o.Venganna.
6. Original written endorsement dated 31.07.2007 given by P. Venkateswarlu, s/o. P.Kesanna, Managing Director of Lakshmi Venkateswara Plasticisers, Kadapa.

On earlier occasion, the said I.A. came to be allowed by the trial Court on 07.09.2017. Challenging the same, the petitioner/plaintiff filed C.R.P.No.6667 of 2017. This Court, by order dated 23.01.2018, allowed the said revision setting aside the order dated 07.09.2017

passed in I.A.No.275 of 2017 in O.S.No.6 of 2008 by the trial Court and remanded the matter to the trial Court for fresh consideration, in accordance with law, after hearing all the stakeholders. On remand, the trial Court allowed the said I.A., by order dated 22.03.2018, which is impugned in the present revision.

3. Learned counsel for the petitioner Sri Meherchand Nori, has relied upon the judgments of this Court in **Voruganti Narayana Rao v. Bodla Rammurthy and others¹**; **R. Saraswathi v. P. Rajamanikyam @ Veeran and others²**; and the order dated 16.06.2016 in C.R.P.No.1153 of 2017 and contends that the essential conditions for allowing a petition filed under Order VIII Rule 1A(3) CPC to receive certain documents are that the respondents are required to state in clear terms as to why the said documents could not be filed along with the written statement and reasons for the delay in filing the same and that the trial Court is required to specify the reasons for allowing such petition, but not on mere discretion as and when it pleases. Learned counsel would contend that neither the respondents have stated sufficient reasons in their affidavit nor the Court has recorded sufficient reasons for allowing the said I.A., for receiving the documents at a belated stage. Learned counsel would further contend that as the written statement came to be filed as far back as on 29.07.2009, there is no sufficient explanation from the respondents for receipt of three documents of the year 2007, except stating that the said documents were mixed up with the other documents and allowing the I.A., for the said

¹ 2011 6 ALT 299

² 2015 5 ALT 527

reason is unsustainable and he prays to set aside the order impugned.

4. On the other hand, learned counsel for the respondents Sri K. Ram Mohan, has supported the order impugned. He would submit that on earlier occasion, this Court had set aside the order on the ground that the trial Court had failed to record the reasons for allowing the I.A., and remanded for fresh consideration and thereafter, the trial Court, after considering the material on record and leaving it open the question of relevancy and admissibility of the documents be considered at the stage of trial, had accepted the explanation given by the respondents/defendants for delay in filing the documents and therefore, the trial Court has rightly exercised its discretion, which cannot be found fault. Learned counsel would submit that unless the Court holds that there is no discretion vested in the trial Court, the sufficiency or other reasons unless so palpable and unacceptable shall not be enquired into by this Court in exercise of its jurisdiction under Article 227 of the Constitution of India, particularly, exercising supervisory jurisdiction over the trial Court. Learned counsel also would draw the attention of this Court to the reasons stated in the order dated 22.03.2018 and submit that no prejudice would be caused to the petitioner in allowing the said petition and the revision does not deserve any consideration and prays for dismissal of the same. He also placed reliance on the judgment of this Court in **N. Premaiah and others v. Narmala Deva Raj and another**³, wherein this Court held that liberal view would be

³ 2015(2) ALD 159

taken in allowing the petition filed for receiving the documents and for the reasons stated therein.

5. Having considered the respective submissions, the grounds as set out in the material on record are that the suit is filed for recovery of a sum of Rs.38,00,000/- alleged to have been paid pursuant to an agreement of sale dated 29.03.2007, which did not fructify. In the written statement filed by the defendants, the payment of said amount pursuant to the agreement and receipt of the same on different dates, as set out in the plaint, are specifically denied. The elaborate written statement runs into six pages. It also specifically stated various transactions between the plaintiff and defendants, the ownership of the industrial unit, by name, M/s. Sri Lakshmi Venkateswara Plasticizers Ltd., Kadapa, and for purchase of the said unit, an amount of Rs.38,00,000/- was alleged to have been paid under the agreement dated 29.03.2007. Through the impugned application, 6 documents were sought to be brought on record by the respondents. Out of 6 documents, 3 documents are of the year 2017, which were obtained by the respondents through Right to Information Act from the public authorities. Even, the petitioner has no objection for receipt of those documents as they are recent documents. But, objection is only with respect to the documents dated 16.07.2007, 25.07.2007 and 31.07.2007. The burden is heavy on the respondents/defendants to make out a case that the said documents could not be filed at an earliest point of time. The reason stated in the affidavit is that the said documents were misplaced in the other business related files in the house and

could not be traced out, and on discovery, they came to be filed. In the context of the explanation given by the respondents/defendants along with the various contentions raised in the written statement, particularly, their assertion that they are running another unit under the name and style of M/s. Sree Sambhav Chemicals and engaged in similar kind of business, the possibility of the documents being mixed up cannot be ruled out. At any rate, the relevancy or otherwise of the said documents could be decided by the Court at the time of trial. Only the lack of elaborate reasoning by the trial Court is not a ground to deny opportunity to the party to the litigation.

6. However, in the facts and circumstances of the present case, the trial Court could have put the respondents in terms for allowing the I.A., to receive the documents on record at belated stage.

7. In those circumstances, the Civil Revision Petition is disposed of, upholding the order impugned subject to condition of the respondents paying a sum of Rs.10,000/- (Rupees ten thousand only) to the petitioner/plaintiff, within a period of 10 days from the date of receipt of a copy of the order. No order as to costs. Miscellaneous petitions, if any, pending in this petition shall stand closed.

CHALLA KODANDA RAM, J

9th November, 2018

sj