

HONOURABLE SRI JUSTICE P. NAVEEN RAO

CIVIL REVISION PETITION No. 3124 of 2018

Date :3.7.2018

Between:

M.Poolamma, w/o. Srinivasa Reddy, Aged 85 years,
Occu: Household, R/o. Tatikonda village, Dhanpur
Station Mandal, Warangal District and two others.

.... Petitioners/petitioners

And

Kaaringula Satyanarayana Reddy, s/o. Ravinder Reddy,
Aged 66 years, occu: Agriculture, r/o. Tatikonda village,
Dhanpur Station Mandal, Warangal district and another.

....Respondents/respondents



The Court made the following:

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ORAL ORDER:

Heard learned counsel Sri Karanam Ramesh for petitioners.

2. Petitioners are plaintiffs. This revision is preferred against decision in I A No. 490 of 2018 by the Principal Junior Civil Judge, Warangal.

3. O S No. 163 of 2009 is filed praying to grant decree of perpetual injunction. Suit is at the stage of arguments. At this stage, plaintiffs filed I A No. 490 of 2018 seeking leave of trial Court to receive documents, list of which was enclosed to the petition.

4. It was contended that at the time of filing suit some of the documents were misplaced and some of the documents were recently obtained. It was contended that said documents were necessary for effective adjudication of the suit.

5. Defendants opposed said prayer contending that evidence was closed long ago, and suit is coming up for arguments. It was contended that some of the documents are post suit and are not admissible.

6. Trial Court noticed that suit was coming up for arguments since 8.2.2018 and underwent several adjournments. Trial Court observed that issues were settled on 21.7.2009, chief affidavit of P.W.1 was filed on 30.6.2011 and plaintiffs' evidence was closed on 12.8.2014. Trial Court observed that from 2011 to

closure of evidence of plaintiffs on 12.8.2014 there was no whisper about two old documents- Pavuthibahi, original land revenue pass book in the plaint or in the plaintiffs' evidence; that relevancy of documents is also not mentioned. Trial Court further observed that as suit is for perpetual injunction post suit documents cannot be considered.

7. A party to a suit should present his evidence at the earliest point of time. It has become routine for parties to introduce new evidence during various stages of the suit. Filing petition after petition by parties to the litigation on one plea or the other is the major impediment in disposal of civil cases expeditiously. Amendments carried out to Order VII are intended to curb this tendency and to discipline the parties. It is no doubt true that, *'Procedural law not to be a tyrant but a servant, not an obstruction but an aid to justice. Procedural prescriptions are the handmaid and not the mistress, a lubricant, not a resistant in the administration of justice'* (**Shaikh Salim Haji Abdul Khayumsab Vs. Kumar and others**¹-paragraph 14), at the same time, as observed by the Supreme Court, *'no person has a vested right in any course of procedure. He has only the right of prosecution or defence in the manner for the time being by or for the court in which the case is pending, and if, by an Act of Parliament the mode of procedure is altered, he has no other right than to proceed according to the altered mode.'* (see *Blyth Vs. Blyth* (1996) 1 All ER 524). (paragraph 13 of **Shaikh Salim Haji**).

¹ (2006) 1 SCC 46

8. After amendment to Civil Procedure Code in the year 2002, after the plaint was presented, plaintiff/s cannot present additional evidence on their behalf. However, Order VII Rule 14 (3) of CPC, vests discretion in the trial Court to allow introduction of new evidence at a later stage. Sub Rule (3) of Rule 14 of Order VII though couched in negative terms, subject to satisfaction of the Court, such plea can be allowed at a later stage. Satisfaction of the Court to accept the plea of plaintiff to the suit to present documents at a later stage depends on the facts of the case, the nature of documents sought to be presented, reasons assigned, genuineness of the claim and the stage of the suit. The trial Court would assess the *bona fides* of the claim and whether such additional evidence would aid in proper adjudication of the suit claim while exercising its discretion.

9. In **BAGAI CONSTRUCTION Vs GUPTA BUILDING MATERIAL STORE**² the Trial Court rejected the applications filed under Order VII/ Rule 14 read with Section 151 of CPC and Order 18/Rule 17 of CPC. On filing revision, the High Court reversed the decision of Trial Court. On appeal Supreme Court upheld the decision of the Trial Court. Supreme Court observed as under:

“15. 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

² (2013) 14 SCC 1

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.....”

10. Noticing the object in introducing stringent provisions in CPC, learned single Judge of this Court cautioned the Courts below in **Voruganti Narayana Rao Vs. Bodla Rammurthy and others³** by observing that the amendments are carried out ‘*to curb the phenomenal delays in the procedural aspects leading to procrastination of the proceedings before the Civil Court..... Undoubtedly, unduly liberal approach in this regard would frustrate the purpose for which the provisions of the Code of Civil Procedure are amended*’. (paragraph 7)

11. Having regard to these observations, a bare perusal of affidavit filed in support of I.A., it is seen that there is no mention of relevancy of documents sought to be presented, how old documents could not be traced earlier, in whose possession those documents were lying and how they were traced out now. A bald affidavit is filed without explaining relevancy of documents and reason for delay. As noted by trial Court there is no whisper about those documents in the plaint. Presentation of documents is not a matter of course and as a vested right. All documents on which reliance is placed must be stated in the plaint and list should be annexed and be marked in evidence. After the stage of presentation of suit is over, only if the trial Court permits, documents can be presented. Thus, burden is on plaintiffs to satisfy the Court about delay, the relevancy and reason for not filing them at the earliest

³ 2011 (6) ALT 299

point of time. When delay is long burden is heavy on the petitioners. The plaintiffs failed to discharge this burden. Further, plaintiffs sought to rely on post suit documents. As noticed by trial Court, case is at the stage of submission of arguments and suit is of the year 2009. In the facts of this case, I do not see any error in the order of the Trial Court refusing to exercise the discretion. It is a well-considered decision and do not call for interference. Civil Revision Petition is dismissed accordingly. No costs. Miscellaneous petitions, if any pending, are closed.

DATE: 03-07-2018
TVK

P NAVEEN RAO,J



HONOURABLE SRI JUSTICE P. NAVEEN RAO



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