THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Civil Revision Petition Nos.3052 and 3090 of 2018

COMMON ORDER:

These revision petitions, under Article 227 of the Constitution of India, are filed by the unsuccessful petitioner-plaintiff assailing the orders, dated 13.04.2018, of the learned Judge, Family Court–cum–VIII Additional District Judge, Prakasam at Ongole, passed in I.A.nos.150 and 151 of 2018 in O.S.No.3 of 2008.

2. I have heard the submissions of *Sri M. Sudheer Kumar*, learned counsel for the petitioner/plaintiff; of *Sri Anup Koushik Karavadi*, learned counsel for respondent nos.1 to 3; and, of the learned Government Pleader for Arbitration. I have perused the material record.

3. In a suit for declaration of title, which the respondents 1 to 3 herein, that is, the defendants 1 to 3 are resisting, the District Collector, Revenue Divisional Officer and Tahasildar concerned i.e., respondents 5 to 7 herein are also party defendants. After the closure of evidence on the side of plaintiff on 26.04.2017; and, the closure of the evidence on the side of defendants 1 to 3 on 14.02.2018, the matter was adjourned for production of evidence on the side of the defendants 5 to 7, namely, the District Collector, Revenue Divisional Officer and Tahasildar concerned. Thereafter, it appears that no evidence was reported on the side of the said defendants and the matter stood posted to 19.02.2018 for hearing arguments. At that stage, the petitioner–plaintiff filed the subject IAs requesting to reopen the evidence on the side of plaintiff and to summon the Tahasildar–party defendant to produce the petition listed documents, namely, "1) Original 1-A Register relating to suit land in Sy.no.16 and its sub-divisions of R.L.Puram Village; 2) Original 1-B

Register of R.L. Puram Village relating to Khatha no.370 relating to suit land in Sy.no.16; 3) The official proceedings, if any, issued as per the provisions of the A.P Rights in Land and Pattadar Passbooks Act, 1971 & the Rules made there under, for correcting or over writing or erasing the existing numericals/letters in the existing entries in original 1-A Register and 1-B register in respect of the land in Sy.no.16 and its sub-divisions of R.L. Puram Village & in respect of Khatha no.370; 4) The proceedings directing to enter the name of D-4 (L.V. Narsimharaju) in the Original 1-A Register & 1-B Register of R.L. Puram Village, to an extent of Ac.1-60 cents in Sy.no.16/5A of R.L. Puram Village; 5) All statutory Forms i.e., Form-II, Form-VI-A, Form-VI-C, Form-VIII, etcetera, which were proclaimed to have been issued by the MRO, Chimakurthy Mandal, and the subsequent Gazette Notifications published as per the provisions of the A.P Rights in Land and Pattadar Passbooks Act, 1971 and the Rules, before entering the names of E. Vijaya Mohan Reddy (D1) & Mannam Sridhar Babu (D3) in the 1-A Register & 1-B Register of R.L. Puram Village, in respect of the land in Sy.No.16/1B, and also the proceedings issued by the said MRO and the mutation applications submitted by the said persons in the above regard; 6) The proceedings, dated 23.10.2002, in Rc.B/636/2002 of the said MRO; 7) The proceedings, notes of inspection and the notices issued to the surrounding land holders by the said MRO as per A.P. Survey and Boundaries Act and its Rules, in the year 2003, relating to conduct of survey of land in survey no.16/1 of R.L. Puram Village, by the Mandal Surveyor and Deputy Inspector of Surveys, RDO's Office, Ongole, on 08.07.2003 and; 8) The copy of computerized Adangal copy, which was prepared for the Fasli year 1406 of R.L. Puram Village relating to Sy.No.16/1 to 16/5."

4. In the said two interlocutory applications, no counters are filed by the defendants 1 to 3. The applications were not resisted even by the defendants 5 to 7. However, by the impugned orders, the trial Court dismissed the applications of the plaintiff. Therefore, the plaintiff is before this Court.

5. The case of the plaintiff in support of the said request, which is necessary for consideration in these revisions, in brief, is this:

"The 4th defendant, the then Mandal Revenue Officer, Chimakurthy, the then Mandal Revenue Inspector, the Village Officials and the 3rd defendant got tampered the original entries in 1-A Register and 1-B Register in respect of some sub-divisions in survey no.16 of R.L. Puram village in a fraudulent, collusive and illegal manner in the year 2003. The said tampering relates to letters 'Sy.no.16/5A as Sy.no.16/1B' and the extent of 'Ac.1-6 as Ac.1-69' in column nos.2 and 3 of 1-A Register and column nos.4 and 6 in 1-B Register. The tampering would be evident to the naked eye, if the originals of the said Registers are produced before the Court. The 3rd defendant is one of the contesting parties to the former suit in O.S.no.148 of 2006. The said suit relate to the dispute covered by Survey no.127/2 of R.L. Puram Village. In the said suit, the certified copy of the revenue record is already exhibited as exhibit A13. The plaintiff obtained the certified copy of the said record and filed before this Court. The said certified copy shows that there is no tampering of the original record as on the date of granting of the certified copy of the said exhibit. Further, a perusal of the said exhibit, which is also exhibited in the present suit, discloses the tampering that is made after grant of the certified copy of revenue record, that is, after the grant of the certified copy that was filed and exhibited in the former suit. In the circumstances, the plaintiff issued a notice, under Order XII Rule 8 of the Code of Civil Procedure, 1908, to the Government Pleader representing the defendants 5 to 7 (revenue officials) for production of the above said petition listed documents. However, the said defendants neither produced the original records nor adduced oral evidence. Therefore, to substantiate the case of the plaintiff, the plaintiff filed the present applications with requests to reopen the evidence on the side of plaintiff and to summon the Tahasildar to produce the original records."

6. As already noted, no counters are filed in the said applications by any of the defendants. Thus, the applications are not resisted.

7. However, learned Government Pleader submitted that when the copies of the documents are already marked and when the same are authenticated documents viz., certified copies, there is no need to summon the Tahasildar to produce the original registers/documents since the originals available in the office of the Tahasildar/revenue officials contain the very same entries as were available in the certified copies granted and exhibited. In support of the said contention, learned Government Pleader placed reliance on the decision in **Veerabomma Laxmamma, Nalgonda Dist. V. Veerabomma Chandrasekhar, R.R. Dist. and others**[1]. Be that as it may.

8. Learned counsel for the defendants 1 to 3 opposed the revisions of the plaintiff *inter alia* contending that the evidence of the plaintiff was closed in April, 2017; that the plaintiff is intending to delay & drag on the proceedings; that the plaintiff earlier filed a revision before the Joint Collector; that the Joint Collector disposed of the said revision

---

[1] 2017 (6) ALT 652

proceedings; that assailing the said orders the plaintiff approached this Court & obtained orders of stay; that the Writ Petition was disposed of with a direction to the Joint Collector to fix a date and conclude the proceedings, however, after giving opportunity to the parties interested; that the plaintiff has withdrawn the revision proceedings; and that, therefore, the said conduct of the plaintiff would show that the plaintiff is intending to drag on the proceedings.

8.1 He furnished a few dates of the postings of the suit from time to time to support the contention that the subject applications are belatedly filed by the plaintiff.

9. I have given earnest consideration to the facts & submissions.

10. It is to be noted that the plaintiff is contending that the copies of the documents obtained from revenue authorities and exhibited are not genuine and reliable documents and that the originals of the same were tampered. The disputed documents were marked through DW1, that is, after the closure of the evidence on the side of the plaintiff. The said documents were admittedly not confronted to the plaintiff during his cross-examination and also to the witnesses who were examined on his side. Therefore, the plaintiff has no opportunity to speak about the genuineness or otherwise of the documents, which are marked through DW1. Hence, plaintiff is constrained to file the applications after the closure of the evidence on the side of the two sets of contesting defendants. Hence, the delay, if any, is attributable to the defendants and not to the plaintiff. However, the averments in the affidavits of the plaintiff filed in support of the two interlocutory applications make out a *prima facie* case for the plaintiff. Further, the contention of the plaintiff is that the original revenue registers/records were tampered after certified copies were granted and that the certified copies of the same original record subsequently granted lay bare the said fact of tampering of the original records. The certified copies already marked lend sufficient *prima facie* support to the contention of the plaintiff. Hence the contentions of the plaintiff need detail examination by calling for the original registers/original records. The plaintiff's request deserves consideration also for the reason that the defendants 5 to 7, who are responsible revenue officers, despite a notice to produce the original documents/registers served upon the Government Pleader, failed to produce the same and further failed to adduce any evidence on their side. Hence, in the considered view of this Court, when the suit is one for declaration of title and a serious contention is raised that in collusion with the revenue officials, the original revenue records/registers were tampered and that the certified copies, which were obtained after such tampering are produced and marked on the side of the defendants 1 to 3, the request of the plaintiff to summon the Tahasildar to produce the original documents/registers merits consideration. Therefore, this Court finds that the orders impugned of the trial Court, which were passed without adverting to the contentions of the plaintiff and without examining the matter in proper perspective, brooks interference.

11. In the result, both the Civil Revision Petitions are allowed and the impugned orders are set aside and the interlocutory applications viz., I.A.nos.150 and 151 of 2018 filed by the plaintiff are allowed. Accordingly, the evidence on the side of the plaintiff is reopened and as a sequel, the trial Court is directed to issue summons to the Tahasildar concerned to produce the petition listed documents as desired by the plaintiff and permit the plaintiff to exhibit the same either through the said witness summoned or any other competent witness.

There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in these Civil Revision Petitions shall stand closed.

M.SEETHARAMA MURTI, J

August 09, 2018
MD