

THE HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION Nos.4810, 4814 and 4820 of 2018

COMMON ORDER:

1) Assailing the orders dated 26.07.2018 passed in I.A.Nos. 754, 752 and 753 of 2018 in O.S.No.235 of 2012 on the file of the Senior Civil Judge, Peddapuram, wherein the three applications filed for receive documents, re-open and recall of PW.1 respectively were dismissed, the present three Civil Revision Petitions came to be filed.

2) Since the issue involved in all the Civil Revision Petitions filed under Article 227 of the Constitution of India are interconnected, they are being disposed of by this common order.

3) The facts in issue are as under:

The petitioners/plaintiffs filed O.S.No.235 of 2012 seeking the following reliefs.

“ 1. To set aside the sale deed dated 19.02.2011 of SRO, Peddapuram bearing document No.589/ 2011, executed by the 1st defendant in favour of the 2nd defendant for the plaint sketch A B C D marked portion and plaint schedule property.

2. Consequently to direct the defendants to deliver A B C D portion shown in the plaint sketch property within

the time stipulated by the Court. In default the plaintiffs are at liberty to get the same through process of law.

3. To award costs of the suit.

4. And to grant such other reliefs which the Court deems fit and proper in the circumstances of the case.”

When the suit is posted for arguments, the present applications came to be filed for re-open, recall and receive the certified copy of town survey field register of T.S.No.403/ B and 404 of Peddapuram Municipality and plan of T.S.No.403/ B and 404 of Peddapuram Municipality. In the affidavit filed in support of the said petitions, it is pleaded that the petitioner obtained the said documents recently and a perusal of the plan measurements revealed the plaint schedule property stands in the name of Jakkula people. Hence, the said documents are necessary to substantiate their contentions.

4) A counter came to be filed denying the entire allegations made in the affidavit. It is stated that Ramayalaym and the property covered under Ex.A1 are not one and the same. It is further stated that since the evidence of both sides was closed and the matter is posted for arguments, the above applications cannot be entertained at this stage.

5) After considering the rival submissions, the trial Court dismissed the same. Aggrieved by the same, the present Civil Revision Petitions came to be filed.

6) Learned counsel for the petitioners would submit that the 1st defendant has no right to pass on the title to the 2nd defendant since the property originally belongs to Jakkula people and there is a Ramalayam. The proposed documents also show that the plaint schedule property stands in the name of Jakkula People, as such the said documents are very necessary to prove the case of the plaintiff.

7) Learned counsel for the respondents would submit that the suit itself is not maintainable as the plaintiffs are not Jakkula people and they are third parties.

8) Under clause (1) of Rule 14 of Order VII of the Code of Civil Procedure, 1908, where a plaintiff relies upon a document to sue or relies upon document in his possession or seek support of his claim, he shall enter such documents in a list, and shall produce it in Court when the plaint is presented by him and shall, at the same time deliver the document and a copy thereof, to be filed with the plaint. Under clause (3) thereof, a document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or

annexed to the plaint but is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit. From the aforementioned statutory provisions, it is evident that a duty is cast upon the plaintiff to enter every document on which he sues and to produce the same in Court along with the plaint. Thus, clause (3) of Rule 14 contains a statutory embargo against filing such document without the leave of the Court. It is settled by a catena of judgments that the Court cannot grant leave to file documents at a belated stage on mere asking. The plaintiff, who seeks to file documents at such stage, has to satisfy at least two conditions, namely; (1) the documents are necessary for deciding the real controversy in the suit and (2) sufficient cause for not producing the documents along with the plaint existed. (Uppu Hymavathi Mahila Sangam rep. by its President M.Anjana Devi and others v. Sri Vidyaniketan Public School¹)

9) In G.P.R.Housing Private Limited Vs. C.Prithvi Raj Reddy², this Court held as under:

"Order VII Rule 14 of the Civil Procedure Code, 1908 enjoins upon the plaintiff to enter all documents, upon which he relies in a list, and produce them in

¹ (2018) 2 ALT 26

² (2015) 1 ALT 330

the Court when the plaint is presented. However, Sub-Rule (3) thereof vests power in the Court to grant leave to file the documents at a later stage but such power has to be exercised only upon the party satisfying the Court that, for convincing reasons, those documents could not be filed earlier. There can be no hard and fast rule for the Court to exercise discretion while granting leave under Sub Rule (3) of Rule 14. The Courts must always exercise sound discretion while dealing with the applications for leave to file additional material. Mere delay by itself would not constitute the sole ground for rejecting the leave. If the facts and circumstances of the case justify non-filing of the documents at an earlier stage, the Court will not reject the application for leave only on the ground of delay. In the ultimate analysis, the endeavour of the Court must always be to decide the real controversy in issue. If the material sought to be produced has relevance on the issues involved in the suit and helps the Court to determine the issues properly and effectually, the Court must exercise its discretion in favour of allowing such evidence."

10) In Lukka Srinivasa Rao @ Venkateswarlu Vs. Lukka Sivaiah³, this Court held as under:

"As regards the proposition of law viz., that Order VII Rule 14(1) C.P.C., enjoins upon the plaintiff to file all his documents along with the plaint and that unless he puts forth convincing reasons, the Court cannot allow him to file the documents at a later stage, the same is unexceptionable. Indeed, this

³ (2016) 1 ALT 36

Court has reiterated this legal position in both the judgments cited by learned Counsel, as referred to supra. However, whether a party has put forth sufficient reasons for filing the documents at a belated stage or not, depends upon the facts of each case and no hard and fast rule can be laid down in that regard."

11) From the judgments referred to above, it is clear that the Court cannot grant leave to mark documents at a belated stage on mere asking. The plaintiff, who seeks to file document at such stage has to satisfy two conditions namely (1) documents are necessary for deciding the real controversy in the suit and (2) sufficient cause for not producing the document along with the plaint exists.

12) Therefore, the question now is whether the trial Court erred in dismissing the applications in view of the judgments referred to above.

13) It is to be noted here that the plaintiffs' side evidence was closed on 08.02.2018. The petitioners never filed the proposed documents either at the time when the evidence of plaintiffs' side was going on or along with the plaint. To cover up the latches, they want to adduce further evidence by recalling PW.1, i.e., in other words they want to come out with a new case, which was not their case earlier. It is also to be noted here that the documents which are to be marked

are public documents, which they could have obtained even at the time of filing of the suit or thereafter. It appears that though an opportunity was given, they never filed the proposed documents. If really, the suit property belongs to Jakkula people nothing prevents them from initiating steps to claim their right and title over the property. There is also a dispute as to whether the petitioners are related to Jakkula people. Since the case is posted for arguments and as no sufficient cause for not producing the documents at the earliest point of time is made out, I see no reason to interfere with the impugned orders. Accordingly, all the Civil Revision Petitions are dismissed.

14) As a sequel thereto, Miscellaneous Petitions pending if any, shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

12.10.2018
gkv