

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

C.R.P.Nos.6345 & 6350 of 2018

Date: 02.11.2018

Between:

Malleti Suri Babu,
S/o.Late Appala Swamy,
Aged 53 years,
R/o.D.No.14-20-21,
Sanjeeva Colony,
B.C.Road,
Gajuwaka,
Visakhapatnam.

...

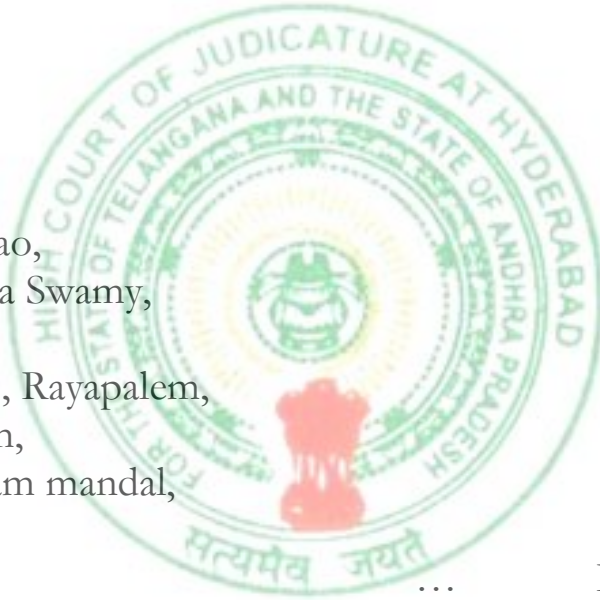
Petitioner

And

Malleti Appa Rao,
S/o.Late Appala Swamy,
Aged: 55 years,
R/o.D.No.3-56, Rayapalem,
Rekhavanipalem,
Bheemunipatnam mandal,
Visakhapatnam
and another.

...

Respondents



Counsel for the Petitioner : Mr. K.Jyothi Prasad

Counsel for the Respondents: ----

The Court made the following:

Common Order:

These two civil revision petitions arise out of two interlocutory applications filed in a common suit, namely, O.S.No.309 of 2010 on the file of the VII Additional Senior Civil Judge, Visakhapatnam.

2. The petitioner filed the aforementioned suit *inter alia* for cancellation of suit A-schedule document and for possession of B-Schedule property, by evicting the defendants from there.

3. In the midst of the trial, the petitioner filed I.A.No.355 of 2018, to receive four documents into evidence and I.A.No.371 of 2018, to issue summons to the Extension Officer, Panchayat Raj in the office of the MDO, Bheemunipatnam, for producing copy of order vide proceedings in Rc.No.276/2015 B dated 24.08.2015, passed by the Divisional Panchayat Officer, Visakhapatnam. Both these applications having been dismissed, the plaintiff filed these civil revision petitions.

4. In the affidavit filed in support of I.A.No.355 of 2018, the petitioner averred that he has got legal notices issued to the Sarpanch, Grama Panchayat, Rekhavani palem, Bheemunipatnam mandal, the Village Revenue Officer, Mulakuddu village, Bheemunipatnam mandal, the Divisional Panchayat Officer, Visakhapatnam division and the District Panchayat Officer, Viskhapatnam, against issuance of tax receipts in favour of respondent No.2 /defendant No.2 during

the pendency of the suit, that after receipt of the said notice, District Panchayat Officer, Visakhapantam passed order, appointing Extension Officer, Panchayat Raj, Office of MDPO, as enquiry officer vide proceedings dated 24.08.2015 and that the Divisional Panchayat Officer issued urgent memo. to the Extension Officer, instructing him to take appropriate action and to furnish the report and the District Panchayat Officer issued an urgent memo. on 15.09.2015 to the Divisional Panchayat Officer, to take appropriate action as per rules. The petitioner further averred that till recently, the aforementioned documents were in the custody of his counsel and that he has obtained the study certificate of his daughter from the Municipal High School, Rayappalem, Bheemunipatnam on 22.08.2015. He further averred that his failure to file these documents was neither willful nor deliberate.

5. Under Order VII Rule 14 (1) of C.P.C., where plaintiff sues upon a document or relies upon document in his possession or power in 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) of Rule 14, 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.

6. It is settled by a catena of decisions that a party cannot produce the documents at any stage of the suit at his will, unless he satisfies the court that sufficient reasons existed for him for not producing those documents along with the plaint. (See LUKKA SRINIVASA RAO @ VENKATESWARLU VS. LUKKA SIVAIAH¹, C.RAMA MOHAN REDDY VS. KUSETTY SESHAMMA AND OTHERS² and M.R.ANJANEYULU VS. R.SUBRAMANYAM ACHARY³)

7. Even according to the petitioner's own averments, all the documents came into existence in the year 2015 itself, when the trial had not commenced. Except the study certificate and the alleged proceedings of the Divisional Panchayat Officer ordering enquiry and calling for a report, all other documents, emanated from the petitioner's lawyer. Even according to the petitioner, all those documents were very much in the custody of his lawyer. Except stating that his failure to produce those document earlier, is neither willful nor deliberate, no reasons whatsoever, were assigned for not filing those documents till the trial had commenced. The learned counsel submitted that after the orders under revision were passed,

¹ 2016 (1) ALT 36

² 2013 (1) ALT 174

³ 2015 (5) ALD 243

the lower court has heard the arguments and reserved judgment on 12.10.2018.

8. In these facts and circumstances of the case, I am of the opinion that the petitioner was not diligent in filing the documents which were admittedly in possession of his lawyer, except the study certificate. Even the study certificate was also claimed to have been obtained in the year 2015 itself. Therefore, the petitioner is not entitled to file the proposed documents at a far too belated stage. The court below has, therefore, rightly dismissed the applications.

9. For the reasons referred to above, I do not find any merit in these civil revision petitions and they are, accordingly, dismissed.

10. As a sequel to the disposal of the civil revision petitions, I.A.No.1 of 2018 in C.R.P.No.6345 of 2018 and I.A.No.1 of 2018 in C.R.P.No.6350 of 2018 stand disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Date: 02nd November, 2018

msb

