

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

C.R.P. No.6495 of 2017

ORDER:

The challenge in this Civil Revision Petition is the order dated 31.10.2017 in I.A.No.283 of 2017 in O.S.No.14 of 2015 passed by the IX Additional District Judge, Wanaparthi, whereunder the learned Judge dismissed the petition filed by the petitioner/D2 under Order VIII Rule 14 CPC.

2) The 1st respondent/plaintiff filed the suit for specific performance of agreement of sale dated 01.10.2014 said to have been executed by 2nd respondent/D1 agreeing to sell the suit schedule property i.e. agricultural land admeasuring 6 acres in Sy.Nos.134/1, 2 & 134/1/2 for a sum of Rs.27 lakhs. According to plaintiff, he paid Rs.20 lakhs and agreed to pay the balance amount at the time of registration. Though the plaintiff demanded for registration several times, defendants avoided. Hence, the suit.

3) The defendants 1 and 2 filed written statement denying their liability to execute any registered sale deed in favour of plaintiff. According to them, plaintiff, taking advantage of the old age of D1 obtained agreement of sale by undue influence. It is submitted that D1 sold the suit schedule property to D2 by way of registered sale deed dated 07.03.2014 pursuant to agreement of sale dated 03.02.2014.

4) While the matter stood thus, petitioner/D2 filed petition I.A.No.283 of 2017 requesting the Court to receive the above said two documents which are very important for proper adjudication of the matter. The trial Court dismissed the said petition observing that petitioner has not assigned any valid reason for not filing those two documents along with the written statement or atleast at subsequent stage i.e. before settlement of issues.

5) Heard arguments of Sri M.Damodar Reddy, learned counsel for petitioner and Sri V.Hanumanth Rao, learned counsel for respondent.

6) The point for determination is:

“Whether there are merits in the CRP to allow?”

7) **POINT**: As can be seen, the trial Court dismissed the application mainly on the observation that the petitioner has not assigned any valid reasons for not filing the two documents along with written statement or atleast at a subsequent stage i.e. before settlement of issues. Of course, the trial Court also expressed the view that since the registered sale deed dated 07.03.2014 was already executed in pursuance of alleged agreement of sale dated 03.02.2014, therefore, the agreement of sale dated 03.02.2014 and receipt have no value.

8) Order VIII Rule 1A CPC is germane for consideration. As per this provision, should the defendant failed to produce the documents on which he bases his defence along with the written statement, the same shall not be received in evidence at the hearing of the suit without the leave of the Court.

9) This Court on a number of occasions happened to reiterate as to when the Court has to exercise its discretion to grant or refuse leave.

a) In ***Ravi Satish vs. Edala Durga Prasad***¹, it is observed thus:

“Para-11. Sub-rule (3) of Rule 1A of Order VIII permits the documents to be received only on leave being granted by the Court. Grant of leave is not for the mere asking, nor is the Court a mere Post-Office to receive documents even in the absence of any reasons being furnished for failure to file the said documents along with the written statement. Admittedly, in the case on hand, no reasons whatsoever have been furnished by the petitioner, let alone adequate cause been shown as to why the documents, which were the subject matter of the application, could not be filed earlier along with the written statement. Having chosen not to give any reasons, it is not open to the petitioner to contend that the Court below should have received the documents, since the petitioner's right could be adversely affected for failure on its part to receive the documents. While it is no doubt true that admissibility and proof of documents are matters which ought not to be gone into at the time of receipt of documents, the fact, however, remains that the leave sought for can only be granted on adequate reasons being furnished justifying failure on the part of the applicant in not filing the documents along with the written statement earlier.”

b) In ***Voruganti Narayana Rao vs. Bodla Rammurthy***² it is held as follows:

“Para-7. Rules 1-A and 1-A(3) of Order VIII Code of Civil Procedure, were substituted by Act 46 of 1999 with effect from 01.07.2002. The object with which those Rules were amended was to curb the phenomenal delays in the procedural aspects leading to procrastination of the proceedings before the civil Court. The

¹ 2009 (60) Civil CC (AP) = MANU/AP/0736/2009

² 2011 (6) ALD 142

Parliament has thought it fit to stipulate time limits for the parties to file their defense and produce the documents along with the defense so that the cases can be disposed of without avoidable delays. This being the avowed object with which the above noted provisions are amended, Rule 1-A(3) of Order VIII Code of Civil Procedure, which on a literal interpretation appears to vest unlimited discretion with the Court, requires to be interpreted so as to advance the intendment of the legislation. The Court before which the Defendant produced the said documents after filing of the written statement, therefore, needs to be circumspect in examining whether proper reasons are assigned by the Defendant for not producing the documents along with the written statement. Unless the reasons assigned by the Defendant discloses sufficient cause for his failure to produce the documents within the time stipulated in Rule 1-A of Order VIII Code of Civil Procedure, the Court shall not permit the Defendant to file such documents later. Undoubtedly, unduly liberal approach in this regard would frustrate the purpose for which the provisions of the Code of Civil Procedure are amended.”

c) Thus, the ratio in the above citations is that without there being adequate reasons for non-filing the documents at relevant time, the Court shall not exercise its discretion to permit the party to produce the documents at a later stage.

d) In ***Managing Director, APSRTC vs. P.V.Surya Narayana***³ also the above decisions are followed.

10) Coming to the instant case, in I.A.No.283 of 2017, except stating that the documents are very much required for proper adjudication of the matter, the petitioner has not stated any reasons muchless cogent reasons for non-filing of the documents at the relevant time.

³ 2017 (4) ALT 582

11) In that view of the matter, I find no jurisdictional error on the part of trial Court in dismissing the petition. Accordingly, this CRP is dismissed. No costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 11.06.2018
Murthy

