

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION Nos.151 and 213 of 2019

COMMON ORDER:

These two Revisions arose between the same parties out of the same suit and therefore they are being disposed of by this common order.

2. Petitioner in both the Revisions is plaintiff in the suit.
3. He filed the said suit for partition and separate possession of the plaint schedule properties.
4. Evidence of the petitioner was also closed. Later defendants/respondents also adduced evidence and their evidence was also closed.
5. At that stage, the petitioner herein filed I.A.No.457 of 2018 under Order VII Rule 14(3) C.P.C. to file 55 more documents, and I.A.No.640 of 2018 under Order XVIII Rule 17 C.P.C. to recall P.W.1 for the purpose of marking these documents.
6. In the affidavits filed in support of these applications, it is contended that the documents now sought to be filed were not in possession and control on the date of filing of the suit and if these documents, which petitioner had procured in connection with his case, are not filed and received, lot of inconvenience and hardship would be caused to petitioner. Petitioner also contended that if documents are

received, true colour of the respondents would be brought to the notice of the Court and therefore sought to reopen his evidence.

7. By order dt.14-09-2018, the Court below dismissed I.A.No.457 of 2018 filed by petitioner under Order VII Rule 14(3) C.P.C. stating that suit being of the year 2012 requires expeditious disposal by posting the matter on day-to-day basis as per the Directions of this Court; the suit is at the stage of cross-examination of D.W.1; petitioner took 3 years for examining three witnesses and to mark documents on his behalf; that several of the documents, which the petitioner now seeks to mark, are very much available with petitioner as per the record, but he did not file them during his evidence, which was completed on 11-12-2015; that he also did not file any application to reopen his evidence and to recall P.W.1 for marking those documents, and even if I.A.No.457 of 2018 is allowed, the proceedings will be dragged for some more days for filing petition to reopen plaintiff's side evidence and to recall P.W.1 for marking those documents; only to procrastinate the suit proceedings, petitioner intentionally filed the present petition and it cannot be allowed.

8. After dismissal of I.A.No.457 of 2018, petitioner filed I.A.No.640 of 2018 stating that he did not know that he should have filed petition to reopen the evidence and recall himself and therefore it is necessary to reopen the case.

9. The respondent opposed this application.

10. The Court below dismissed the said application and recorded that petitioner filed I.A. to restore I.A.No.457 of 2018, it was returned on 28-11-2018 with objection as to how it was maintainable, that the petitioner had not challenged the same by way of Revision and so I.A.No.640 of 2018 has become infructuous and lacks merits.

11. Assailing both these orders, these two Revisions are filed.

12. Learned counsel for petitioner contended that these documents, which are now sought to be filed by petitioner, are required to confront the same to D.W.1 and failure of the Court below to allow these applications has caused grave prejudice to the petitioner.

13. Admittedly, for confronting documents to the defendant witnesses, under Order VII Rule 14(4) C.P.C., no leave of the Court is necessary. Also, the petitioner had not filed any application to reopen the evidence and to recall D.W.1 and instead has filed application to recall P.W.1. The suit is of the year 2012 and 6 years later the petitioner has sought to mark 55 documents by recalling himself as a witness though his evidence had been closed in December, 2015 without assigning any reason why he could not file these documents when he filed the suit.

14. I therefore do not find any error of jurisdiction in the orders passed by the Court below on 14-09-2018 in I.A.No.457 of 2018 and 03-01-2019 in I.A.No.640 of 2018 in O.S.No.27 of 2012.

15. Accordingly, these Revisions fail and they are dismissed. No costs.

16. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 11-02-2019
Vsv

