

SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.Nos.167, 182 and 247 of 2019

COMMON ORDER:

These three Revision Petitions arise between the same parties and out of the same suit. Therefore they are being disposed of by this common order.

2. Petitioner in all these Revision Petitions is the defendant in the suit.

3. The respondent/plaintiff filed the said suit against the petitioner for declaration of title and recovery of possession.

4. Written Statement was filed by the petitioner opposing the suit claim but without filing any documents along with the Written Statement.

5. Later issues were framed and evidence on the side of the plaintiff was concluded. At that stage, the petitioner filed I.A.No.870 of 2018 to mark photo copies of certain documents as secondary evidence. That application was opposed by the respondent and that application was dismissed observing that certified copies of documents could have been obtained by the petitioner and filed, but photo copies cannot be filed.

6. Petitioner then applied for certified copies of certain documents including a registered sale deed, docket order of Family

Court, Hyderabad and *ex parte* order passed by the Family Court, Hyderabad etc.

7. She then filed I.A.No.868 of 2018 to reopen the suit for the purpose of further cross examination of P.W.1, I.A.No.869 of 2018 to recall P.W.1 for the purpose of marking documents and I.A.No.952 of 2018 under Order VIII Rule 1-A (3) praying the Court to receive documents.

8. Counter affidavits were filed by the respondent opposing all the three applications and contended that the case has been posted for arguments, that P.W.1 had been examined long back and was also cross examined, and if any document has to be marked, it has to be marked through the petitioner and she cannot force the respondent to mark her documents.

9. By separate orders dt.15-11-2018, the Court below dismissed all the three applications. It considered the pleadings of the petitioner in I.A.No.952 of 2018 filed under Order VIII Rule 1-A (3) CPC and pointed out that the none of the documents now sought to be submitted by the petitioner relate to the suit schedule property or to the respondent/plaintiff; no cause is shown by the petitioner for not filing these documents along with Written Statement; that the evidence of both sides was concluded long back and the suit is posted for hearing of the arguments; and it is not explained by the petitioner how these documents are relevant for adjudication of the main suit. It

also observed that there are no pleadings in the Written Statement about the documents now sought to be submitted by the petitioner.

10. It therefore rejected I.A.No.952 of 2018 and consequently rejected both I.A.Nos.868 and 869 of 2018.

11. Assailing the same, these Revision Petitions are filed.

12. Learned counsel for the petitioner contended that grave prejudice would be caused to the petitioner, if the petitioner is not allowed to submit the documents now sought to be submitted in I.A.No.952 of 2018 and to confront these documents to P.W.1 by summoning P.W.1.

13. Admittedly, the documents now sought to be filed by the petitioner were not filed along with the Written Statement. If these documents are to be utilized for cross examination of the plaintiff's witnesses, no leave of the Court is required in view of Order VIII Rule 1-A (iv) (a). But for the reasons best known to the petitioner, the petitioner had not confronted these documents to P.W.1 when he was in the witness box. At the stage when the matter is posted for arguments, petitioner cannot now seek to submit the said documents on the ground that they were misplaced earlier because petitioner could as well have obtained the certified copies and filed the same along with her Written Statement as mandated by Order VIII Rule 1-A (i) CPC .

14. At this belated stage, petitioner cannot be allowed to now submit said documents because evidence on the side of the respondent has already been closed and it would cause grave prejudice to the respondent if these documents are now allowed to receive by the Court below. The petitioner has clearly been negligent in producing these documents and she cannot be allowed to take advantage of her own wrong.

15. Therefore, I see no error of jurisdiction in the orders passed by the Court below rejecting I.A.Nos.952, 868 and 869 of 2018.

16. Accordingly, all the Civil Revision Petitions are dismissed. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 15-02-2019
kvr