

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.Nos.451, 452 and 465 of 2019

COMMON ORDER:

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

2. Petitioner is plaintiff in O.S.No.15 of 2010 which he filed for specific performance of an agreement of sale dt.05-12-2006 executed in favour of his father Sambaiah by respondent Nos.1 to 8.

3. Respondent Nos.9 to 13 are wife and other legal heirs of deceased Samabaih.

4. Respondent Nos.1 to 8 filed a written statement opposing the suit claim.

5. After trial got concluded and the matter was posted for arguments, I.A.Nos.443, 444 and 445 of 2018 were filed by petitioner to reopen the suit for the purpose of adducing further evidence on behalf of the petitioner, to recall P.W.1 for recording further evidence and to receive Certified Copies of warrant of attachment dt.26-02-2007 and death certificate of petitioner's father.

6. In the affidavit filed in support of these applications, petitioner stated that the warrant of attachment was issued in I.A.No.109 of 2007 in O.S.No.31 of 2007 by the Senior Civil Judge, Jagtial; that warrant of attachment before judgment was obtained by him on 13-11-2018; that petitioner did not file the original death certificate of his father

since it was misplaced in his house and had only filed xerox copy of the same; and that on 14-11-2018 he could trace the original death certificate.

7. These applications were opposed by respondent Nos.1 to 8. It was pointed out that respondent Nos.9 and 11 to 13, who are wife sisters of petitioners, had filed I.A.Nos. 45 and 46 of 2018 on the same grounds mentioned in I.A.Nos.443 to 448 of 2018 and they were dismissed on 23-08-2018; after such dismissal, present I.As were filed by petitioner, whose evidence had been closed on 17-06-2014 itself. It was further pointed out that the suit is now posted for arguments and at this belated stage, these applications cannot be entertained.

8. By order dt.22-01-2019, the Court below dismissed the applications. It held that petitioner had examined P.Ws.1 to 5 and marked Exs.A-1 to A-13 and the defendants examined D.Ws.1 and 2 and C.W.1 and marked Exs.C-1 and C-2; I.A.Nos.45 and 46 of 2018 filed by defendant Nos.9, 11 to 13 were dismissed on similar grounds and the said orders were not challenged. It also observed that the Code of Civil Procedure has been amended by Act 22 of 2002 w.e.f. 01-07-2012 and it is mandatory on the part of the plaintiff to file all relevant documents along with plaint by serving copies of documents on the other side; that the documents now sought to be filed are much prior to the evidence of P.W.1, which was concluded on 25-06-2013 itself; no valid ground is shown by petitioner for filing the documents annexed to I.A.No.445 of 2018 along with the plaint, and

consequently petitioner is not entitled for reopening of the suit or recall of P.W.1.

9. Assailing the same, these Revisions are filed.

10. Though learned counsel for petitioner sought to contend that grave prejudice would be caused to petitioner if these documents now sought to be submitted by petitioner are not received, in the affidavit filed in support of I.A.Nos.443 to 445 of 2018, no valid reason is assigned why the petitioner could not have obtained the copy of warrant dt.26-02-2007 in I.A.No.109 of 2007 in O.S.No.31 of 2007 on the file of the Senior Civil Judge, Jagtial or could not file the death certificate of petitioner's father, who died on 25-12-2008, along with plaint or at least before the trial commenced. 8 years after the suit has been filed, petitioner now cannot seek to reopen the suit and recall P.W.1 to mark these documents, having been negligent in producing these documents along with the plaint.

11. Admittedly, the suit is of the year 2010 and is now posted for arguments. At this stage, petitioner therefore petitioner cannot be permitted to file new documents and reopen the suit and recall P.W.1.

12. Therefore, I do not find any merit in these Revisions and they are accordingly dismissed. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 06-03-2019
Vsv