

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition Nos.1048, 1059 and 1060 of 2019

COMMON ORDER :

Since all the three Revisions arise out of the same suit and between the same parties they are therefore disposed of by this Common Order.

2. The petitioner herein is 8th defendant in O.S.No.477 of 2007.
3. The said suit was filed by respondent nos.1 and 21 along with one Sri T. Pandu Ranga Rao, father of 1st respondent, for partition of the plaint schedule properties, for allotment of 2/5th share, and for other reliefs.
4. Written statement was filed by defendant nos.5 to 8 and 12th defendant.
5. The 13th defendant adopted the Written Statement of the 12th defendant.
6. In his Written Statement, the 12th defendant / 13th respondent herein took the plea that there is no cause of action to file the suit; and that he is in separate possession and enjoyment of the plaint schedule properties; and that respondent nos.1 and 21 are not entitled to any relief.

7. After trial concluded, the matter was posted for arguments and arguments on both sides were also heard, and it was coming up for submitting reply arguments.

8. At that stage, the petitioner herein filed I.A.No.123 of 2019 to re-open his evidence for marking the documents; I.A.No.122 of 2019 to re-call him for marking the said documents; and I.A.No.124 of 2019 under Order VIII Rule 1-A(3) of Civil Procedure Code, 1908 to receive the said documents.

9. The petitioner contended that respondent no.12 along with his wife, two daughters and son had executed a Registered Sale Deed on 13.03.2013 and another Registered Sale Deed on 20.06.2018 in favour of third-parties and it is necessary to bring them on record; that in the sale deeds, 12th defendant had taken a stand that under an oral understanding they were cultivating the land in specified survey numbers, but no partition by metes and bounds had taken place; and thus, it is supporting the case of respondent nos.1 and 21 / plaintiffs.

10. These applications were opposed by respondent nos.1 and 21 contending that the suit is posted to 31.12.2018 for filing written arguments of defendant nos.6 to 8, and at that juncture, these applications were filed to intentionally drag on the case; that while the petitioner was giving evidence, he knew about the existence of these sale deeds but he wantonly did not bring it to the notice of the Court below; that these documents are not binding on them as they are not

parties to the said documents; and that there was collusion between petitioner and defendant nos.14 to 16 to create these documents.

11. By common orders dt.27.03.2019, the Court below dismissed all the three applications. It observed that the suit was filed in the year 2007 and the documents sought to be received are of the year 2013 and 2018 and were filed after the closure of oral and documentary evidence when the matter is posted for arguments, and both parties have also submitted oral arguments when the matter was again posted for reply arguments. It observed that petitioner had occasion to get the documents on record before closure of the evidence, and now it is not permissible for him to fill up the gaps that occurred in the evidence.

12. Assailing the same, the present Civil Revision Petitions are filed.

13. Though the counsel for petitioner sought to contend that the documents which have been executed by 12th defendant pending suit are very important documents which throw light on the conduct of 12th defendant, having regard to the fact that the doctrine of *lis pendens* would take care of those transactions, the petitioner cannot seek to re-open the evidence / re-call him as a witness to mark these two documents, particularly when the suit is posted for submission of reply arguments by the parties.

14. I therefore do not find any error of jurisdiction in the orders passed by the Court below warranting interference by this Court in exercise of its jurisdiction under Article 227 of the Constitution of India.

15. Accordingly, the Civil Revisions Petitions fail and they are dismissed at the stage of admission. No order as to costs.

16. As a sequel, miscellaneous petitions pending if any in these Civil Revision Petitions, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 22.04.2019

Ndr/*

