

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition Nos.1316, 1323 and 1334 of 2019

COMMON ORDER :

Heard both sides.

2. Since these three Revisions arise between the same parties out of the same suit, viz., O.S.No.1988 of 2006, they are being disposed of by this common order.

3. The petitioners in these three Revisions are defendant nos.1 to 5 and defendant nos.10 to 12 in the above suit.

4. The 1st respondent herein filed the said suit against petitioner and other defendants for declaration of his title to the plaint schedule property, for recovery of possession thereof, and for a perpetual injunction restraining petitioners and other defendants from alienating the suit schedule property to third parties.

5. The basis of claim of 1st respondent is that his father was a protected tenant of the subject land and had obtained a Certificate under Section 38-E of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 on 20.05.1975; that he died on 18.06.1991; that 1st respondent and his mother were declared as successors of one K. Balaiah on 19.05.1998; and that subsequently, the 1st respondent's mother also died on 17.02.2006, and the 1st respondent thus succeeded to the said property.

6. Written Statement was filed by petitioners and other defendants opposing the suit claim.

7. In the year 2014, the 1st respondent had filed I.A.No.1407 of 2014 seeking amendment of the plaint, I.A.No.1408 of 2015 to summon the Mandal Revenue Officer concerned to give evidence in the suit, and also I.A.No.1409 of 2014 to receive certain documents.

8. On 03.02.2016, I.A.Nos.1407 and 1408 of 2014 were dismissed, but on 09.07.2015 I.A.No.1409 of 2014 was allowed.

9. Challenging the order dt.03.02.2016 passed in I.A.No.1407 of 2014, the 2nd respondent filed Civil Revision Petition No.1829 of 2016 which was dismissed on 20.12.2018, since the 1st respondent sought to withdraw the same.

10. The 1st respondent thereafter filed I.A.No.229 of 2019 under Section 151 of Civil Procedure Code, 1908 to re-open his evidence for the purpose of re-calling PW.1 for the limited purpose of marking the documents which were permitted to be marked by the Court below in its order dt.09.07.2015 passed in I.A.No.1409 of 2014; I.A.No.231 of 2019 to re-call PW.1 for marking the said documents; and along with these two applications, he also filed I.A.No.230 of 2019 under Order VII Rule 14 of Civil Procedure Code, 1908 to receive the order dt.20.08.2005 in Case No.F2/8254/1997, passed by the Joint Collector-II, Ranga Reddy District wherein an appeal preferred by father of petitioners against 1st respondent's mother and another was dismissed for non-prosecution, and the Section 38-E Certificate

granted to the 1st respondent's father on 20.05.1975 stood confirmed by such dismissal.

11. It is the plea of 1st respondent in I.A.No.230 of 2019 that with great difficulty he obtained copy of this order under the Right to Information Act, 2005 and so he could not file it at an earlier point of time, and no prejudice would be caused to petitioners if it is taken as exhibit on the 1st respondent's side.

12. The petitioners filed a counter-affidavit opposing I.A.Nos.229 and 231 of 2019 on the ground that I.A.No.1407 of 2014 filed by 1st respondent seeking amendment of plaint to refer to the documents which are also subject matter of I.A.No.1409 of 2014 had been dismissed and had been confirmed by this Court in its order dt.20.12.2018 in Civil Revision Petition No.1829 of 2016, and so, both these applications should be dismissed. They also opposed I.A.No.230 of 2019 on the ground that wrong provision of law was quoted by 1st respondent and that 1st respondent was not diligent in filing the said document. It was contended that the order dt.20.08.2005 had been passed prior to the filing of suit in September, 2006, and 1st respondent should explain the delay of (11) years in not seeking copy of the order which was filed into the Court 1 year 4 months after obtaining it.

13. By common order dt.17.04.2019, all the three applications, viz., I.A.Nos.229, 230 and 231 of 2019 were allowed by the Court below on payment of costs to petitioners by 1st respondent.

14. The Court below observed that the documents which were earlier permitted to be received by the Court in I.A.No.1409 of 2014 were sought to be marked by re-opening the evidence of 1st respondent and re-calling PW.1 through I.A.Nos.229 and 231 of 2019; that the documents sought to be filed along with I.A.No.230 of 2019 had been obtained under the Right to Information Act, 2005 and after filing of the suit, the Court is allowing the said applications subject to payment of costs.

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

16. As regards the contention of counsel for petitioners that I.A.Nos.229 and 231 of 2019 could not have been allowed by the Court below in view of the dismissal of I.A.No.1407 of 2014 filed by the 1st respondent seeking amendment of the plaint is concerned, admittedly I.A.No.1409 of 2014 which was filed to receive the said documents had been allowed on 09.07.2015. This order had not been questioned by petitioners, and it still subsists. The dismissal of the application for amendment of plaint, i.e., I.A.No.1407 of 2014, therefore, does not come in the way of 1st respondent seeking to summon P.W.1 by re-opening the evidence of 1st respondent, since the order dt.09.07.2015 passed in I.A.No.1409 of 2014 continues to stand.

17. Coming to I.A.No.230 of 2019, the document which is sought to be marked therein is the order dt.20.08.2005 in F2/8254/1997

passed by the Joint Collector-II, Ranga Reddy District to which the predecessors-in-title of 1st respondent as well as petitioners are parties.

18. It is not the case of petitioners that 1st respondent himself is a party to the said order.

19. Also, a reading of the said order does not indicate that notice has been served therein to 1st respondent's mother, viz., Narsamma, who was respondent in the said case before the Joint Collector.

20. The petitioners are unable to show any material to show that the 1st respondent was aware of the order of the Joint Collector even prior to the filing of the suit and he deliberately did not file it.

21. In these circumstances, I do not find any error of jurisdiction in the order passed by the Court below in allowing I.A.Nos.229, 230 and 231 of 2019.

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

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 13.06.2019

Ndr/*