

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION NOs.1851, 1852 AND 1853 OF 2019

COMMON ORDER:

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

Petitioners in these Revisions are some of the plaintiffs in O.S.No.328 of 2008 on the file of the III Additional District Judge, Ranga Reddy District at L.B. Nagar.

The said suit had been filed by the plaintiffs for partition and separate possession of the suit schedule property and to grant 1/8th share therein to the plaintiffs and defendants 1 to 3, to declare a registered sale deed bearing document No.3232/1995 as null and void and also to grant an injunction restraining the respondents/defendants from changing the physical features of the suit schedule property.

It was the pleading of the petitioners in the plaint that defendants 9 and 10 in the suit are the sons of Mohd. Khariuddin but they pose themselves of as sons of one Shaik Mehaboob and they created certain documents.

After the trial was concluded and the matter was coming up for arguments, petitioners/plaintiffs filed I.A.No.232 of 2017 under Order VII Rule 14(3) of the Code of Civil Procedure, 1908 (CPC), to receive certified copy of Pendyala Gram Panchayat Voters' List Register of 1986 obtained under the Right to Information Act, 2005, for purpose of marking it as Ex.A13, I.A.No.233 of 2019 to reopen the evidence

of P.W.1 for purpose of marking it and I.A.No.234 of 2019 to recall P.W.1 for marking it.

In the affidavit filed in support of these applications, it is the contention of the fourth petitioner on behalf of the other petitioners that the document in question is essential to prove petitioners' case that defendants 9 and 10 are not the sons of Shaik Mehaboob, that there were deaths of certain members of family because of which he could not obtain this document and mark it during his evidence.

Counter affidavit was filed by respondents opposing this application stating that petitioners failed to explain why they could not file this document since 2008 in spite of having knowledge and so it should be dismissed.

By order dated 01.07.2019, the Court below dismissed all the three applications stating that no valid reason has been assigned as to why the same was not filed earlier and the petitioners are intending to drag on the matter and that the suit is more than ten years old.

Assailing the same, these Revisions are filed.

Counsel for petitioners contended that the said document is crucial to the case of the petitioners and there was an attempt to mark this very same document by defendants which was rejected by the Court below on 03.08.2018 and only thereafter the petitioners came to know about the said document. He did not dispute that the Voters' List of Pendyala Gram Panchayat of 1986 was sought to be marked by the petitioners and it would have been available in the office of the Gram Panchayat even on the date of filing of the suit in the year 2008.

No valid reason is assigned by the petitioners for not filing this document earlier along with the plaint.

Order VII Rule 14(3) CPC states that documents which ought to have been produced in the Court by the plaintiff when the plaint is presented but were not so produced, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

Interpreting similar language contained in Order VIII Rule 1A(3) CPC referring to a 'defendant', this Court held in **Ravi Satish v. Edala Durga Prasad**¹ that grant of leave is not for the mere asking and that the Court is not a mere Post-office to receive documents even in the absence of reasons furnished for failure to furnish the said documents along with the written statement. It observed that leave sought for can only be granted on adequate reasons being furnished for failure on the part of the applicant in not filing the documents along with the written statement.

Similar view has been taken in **Voruganti Narayana Rao v. Bodla Rammurthy**² also by another learned Single Judge of this Court.

In view of the settled legal position, since the petitioners have not chosen to file the document which is admittedly available even on the date of filing of the suit, along with the plaint filed by them, the same cannot be received in evidence at this belated stage when the suit is posted for arguments. If the said document cannot be received in evidence, then P.W.1 need not be recalled or for reopening the suit.

¹ 2009(3) ALT 236

² 2011(6) ALT 299

Accordingly, there is no error in the order dt. 01.07.2019 of the Court below in dismissing I.A.Nos.232, 233 and 234 of 2019.

Therefore, the Revisions fail and are dismissed.

There shall be no order as to costs. Miscellaneous applications, if any, pending shall stand dismissed.

(M.S.RAMACHANDRA RAO, J)

6th August 2019
RRB

