

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

C.R.P.Nos.2383, 2391 & 2408 of 2019

COMMON ORDER:

Since the facts of the case, issues involved and the parties to the litigation are identical, these three Civil Revision Petitions are being disposed of by this common order.

2. CRP Nos.2408, 2391 and 2383 of 2019 are filed under Article 227 of the Constitution of India by the petitioners/plaintiffs, challenging the common order, dated 31.01.2019, passed in I.A.Nos.550, 551 and 552 of 2015 respectively in O.S.No.79 of 2013, by the Junior Civil Judge, Alair, whereby, the applications filed to reopen the case for further evidence on the side of plaintiffs (I.A.No.550 of 2015), to issue summons to Smt. Chirige Bramaramba, W/o.Anjaiah and Chindari Shivalal, S/o.Babulal to give their evidence in respect of the plots purchased by them and sale deeds (I.A.No.551 of 2015) and to call for the ordinary sale deeds of Smt.Chirige Bramaramba, W/o.Anjaiah and Sri. Chindari Shivalal, S/o.Babulal for comparison of signature of deceased Chirige Ravinder (I.A.No.552 of 2015), were dismissed.

3. Heard the learned counsel for the revision petitioners/plaintiffs and perused the record. Though notice is served on the respondent/defendant, there is no representation on her behalf.

4. The learned counsel for the revision petitioners/plaintiffs would contend that the husband of the respondent/defendant by name Chirige Ravinder executed sale deeds in favour of Shivalal and K.Pochamma during his life time, alienating a part of the land belonging to him. Those documents are relevant for the purpose of adjudication of the subject suit in O.S.No.79 of 2013 filed for specific performance of agreement of sale, dated 28.02.1998. Except those documents, there is no other document to prove the claim of the revision petitioners/plaintiffs. If those documents belonging to Shivalal and K.Pochamma are summoned, no prejudice would be caused to the respondent/defendant. The Court below is unjustified in dismissing the subject interlocutory applications and ultimately prayed to set aside the common order under challenge and allow the subject interlocutory applications as prayed for.

5. Admittedly, there is no mention of the subject documents in the pleadings in the plaint. The subject suit was filed in the year 2013. Further, the agreement of sale said to have been executed on 28.02.1998. It is also borne by record that though the purchase is said to have been made during the lifetime of Chirige Ravinder, no legal notice was issued. After completion of evidence of both sides and when the suit is coming up for arguments, the subject applications were filed to reopen the case for further evidence, issue summons to

witnesses and call for the documents. The subject Interlocutory Applications were filed belatedly. No substantial reasons were assigned for the delay in filing the applications. The genuineness of the documents proposed to be summoned is also in question. The application to summon the documents cannot be allowed mechanically without assigning substantial reasons. For the above reasons, the proposed documents do not have any substantial bearing over the determination of the suit. Similar view was taken in the decision reported in *Lukka Srinivasa Rao @ Venkateshwarlu vs. Lukka Shivaiah*¹. The reasons assigned by the Court below for the dismissal of the subject Interlocutory Applications are sustainable. There is nothing to take a different view. There is no legal infirmity in the common order under challenge. These Civil Revision Petitions are devoid of merit and are liable to be dismissed.

6. In the result, these three Civil Revision Petitions are dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in these Civil Revision Petitions, shall stand closed.

Dr. SHAMEEM AKTHER, J

30th December, 2019
Bvv

¹ 2016 (1) ALT 36