

THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

Civil Revision Petition No.3980 of 2014

And

Civil Revision Petition (SR) No.23886 of 2014

COMMON ORDER:

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

2. Petitioners herein are the defendants in the said suit.
3. The said suit is filed by the respondent against the petitioners for declaration of his title and for perpetual injunction in respect of the suit schedule property.
4. The petitioners filed Written Statement disputing the contentions of the respondent and opposing grant of relief to the respondent.
5. The evidence of P.W.1 was completed on 28.10.2014 and thereafter, P.Ws.2 to 5 were examined by the respondent and it was closed on 15.09.2014. Subsequently, P.W.6 was cross-examined on 16.09.2014 and the respondents' evidence was closed. Thereafter, the matter was coming up for evidence of the petitioners and from 08.10.2014 the suit was posted to 20.10.2014 directing the petitioners to produce their entire evidence since there was a direction by this Court on 16.06.2014 in CRP.No.1317 of 2013 to dispose of the suit expeditiously within six months.

6. Petitioners then filed I.A. No.631 of 2014 to reopen the case of the respondent to enable the petitioners to further cross examine P.Ws.1 and 5 on certain left over aspects and I.A. No.632 of 2014 to recall P.Ws.1 and 5 for the said purpose.

7. In the affidavit filed in support of the said applications, the 1st petitioner stated that she was in disturbed mood as the respondent and his followers allegedly demolished part of suit property and made an attempt to trespass into the suit property. She alleged that the respondent registered two false cases in collusion with Police and made the 1st petitioner to go around the criminal Courts and Police Stations for more than two years. She contended that she could not concentrate on the matter to instruct her counsel to cross examine P.Ws.1 and 5 on all aspects of the matter. She also stated that she was the head of the family and looking after the case, and that after going through the documents filed by the respondent, it was discovered that some aspects of the matter had not been taken note while cross examining P.Ws.1 and 5.

8. Counter affidavit was filed by the respondent opposing the said applications stating that the petitioners themselves had filed copy of the order dt.16.06.2014 in CRP. No.1317 of 2013 directing the Trial Court to dispose of the suit within six months from 09.07.2014 and got the matter advanced; and the petitioners are themselves are acting in a manner to delay the disposal of the suit contrary to the High Court's directions. He contended that there are no reasons to recall

P.Ws.1 and 5. It is also contended that the respondent is a Senior Citizen aged 63 years old residing at Hyderabad, and every time he has to incur considerable expenditure in traveling from Hyderabad to Siddipet in a Taxi since he is unable to travel by Bus, and that P.W.5 is also a resident of Hyderabad and he is not in a position to come repeatedly, closing his business in Hyderabad.

9. By order dt.20.10.2014, the Court below dismissed both the Applications. It observed that the petitioners themselves, having produced order dt.16.06.2014 in CRP.No.1317 of 2013 directing the Court below to decide the suit in six months from the date of receipt of a copy of the order of the High Court, after the evidence of the respondent was concluded on 16.09.2014, filed these Applications on 16.10.2014 without cooperating with the Court below for disposal of the suit within the time fixed by the High Court. It observed that P.Ws.1 and 5 were cross examined at length and no valid reason is given by the petitioners to recall P.Ws.1 and 5.

10. Assailing the same, these Revisions are filed.

11. Counsel for the petitioners contended that the Court below ought to have allowed both the Applications and permitted the petitioners to further cross examine P.Ws.1 and 5 since the 1st petitioner was in a disturbed state of mind and could not properly brief the counsel engaged by the petitioners in the trial Court at the time of cross examination of P.Ws.1 and 5.

12. I am unable to accept the said contention because there are 4 petitioners of whom petitioners 2, 3 and 4 are male members of the family. Instructions to the counsel to cross examine the witnesses can as well be conveyed by the other members of the family if the 1st petitioner is in a disturbed state of mind. Having ample opportunity to cross examine P.Ws.1 and 5 and having done so at length, petitioners cannot delay the disposal of the suit and thereby thwart the direction granted on 16.06.2014 in CRP.No.1317 of 2013 to dispose of the suit expeditiously.

13. In view of the above, I do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India.

14. Accordingly, these Revisions failed and are dismissed. There shall be no order as to costs.

15. As a sequel, miscellaneous applications, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 16.07.2019
LSK