

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION Nos.5971 & 5972 of 2018

COMMON ORDER:

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

2) C.R.P.No.5971 of 2018 is filed under Article 227 of the Constitution of India, by the revision petitioner/plaintiff, through her Special Power of Attorney holder Akula Hymavathi, aggrieved by the order, dated 10.09.2018, passed in I.A.No.232 of 2018 in O.S.No.69 of 2011 by the Senior Civil Judge, Mahabubabad, wherein the subject interlocutory application filed by the revision petitioner/plaintiff through her Special Power of Attorney holder Akula Hymavathi, under Order XVI Rules 1 and 2 and Section 151 of CPC. requesting to summon one Yerramreddy Krishna Reddy to produce the sale deed vide Document No.3910 of 1981 executed by Banoth Champla in his (Yerramreddy Krishna Reddy) favour on 09.12.1981 and also to give evidence, was dismissed.

3) C.R.P.No.5972 of 2018 is filed under Article 227 of the Constitution of India, by the revision petitioner/plaintiff, through her Special Power of Attorney holder Akula Hymavathi, aggrieved by the order, dated 10.09.2018, passed in I.A.No.234 of 2018 in O.S.No.69 of 2011 by the Senior Civil Judge,

Mahabubabad, wherein the said interlocutory application filed under Section 151 of CPC by the revision petitioner/plaintiff through her Special Power of Attorney holder Akula Hymavathi, to re-open the subject suit to produce necessary evidence on behalf of the revision petitioner/plaintiff, was dismissed.

4) Heard the learned counsel for both the sides and perused the record.

5) The learned counsel for the revision petitioner/plaintiff in both these revisions would contend that the evidence of Y.Krishna Reddy, who is vendor of the revision petitioner/plaintiff, is necessary for determination of the subject suit and also to substantiate the contentions made on behalf of the revision petitioner/plaintiff. The Court below is unjustified in dismissing the subject Interlocutory Applications and ultimately prayed to set aside the impugned orders, dated 10.09.2018, passed in I.A.Nos.232 and 234 of 2018 by the Court below and allow the said Interlocutory Applications as prayed for.

6) On the other hand, the learned counsel for the respondents/defendants would submit that the evidence affidavit of P.W.2-Y.Krishna Reddy was filed. Thereafter, though sufficient time was given, P.W.2-Y.Krishna Reddy did not turn up and his evidence affidavit was eschewed on 14.07.2017. Further, though sufficient time was granted to the revision petitioner/plaintiff to be represented by a valid GPA holder, she failed to do so. Under these circumstances, the Court below is

justified in passing the impugned orders. There is nothing to interfere with the same and ultimately prayed to dismiss these Civil Revision Petitions.

7) The material placed on record reveals that the evidence affidavit of P.W.2–Y.Krishna Reddy was filed on 18.02.2016. The original suit underwent several adjournments for cross-examination of P.W.2–Y.Krishna Reddy. Since P.W.2–Y.Krishna Reddy did not turn up on several adjournments, finally on 14.07.2017, the Court below was pleased to eschew his evidence. Thereafter, the subject I.A.No.232 of 2018 was filed to summon Y.Krishna Reddy for production of sale deed vide Document No.3910 of 1981 executed by Banoth Champla in his (Yerramreddy Krishna Reddy) favour on 09.12.1981 and also to give evidence.

8) The material placed on record reveals that the evidence on the side of the revision petitioner/plaintiff was closed on 30.12.2017 and the evidence on the side of the respondents/defendants was closed on 23.07.2018. Immediately after closure of the evidence on the side of revision petitioner/plaintiff, the subject interlocutory applications were not filed. The subject interlocutory applications were filed belatedly on 02.04.2018. Further, the revision petitioner/plaintiff wanted to be represented by GPA holder, but she did not file the original GPA before the Court below to grant the said relief. Thereafter, this defect was cured. As seen from the record, since the revision petitioner/plaintiff was not diligent in pursuing the remedy, the

order, dated 14.07.2017, eschewing the evidence affidavit of P.W.2-Y.Krishna Reddy, was passed. Subsequently, the revision petitioner/plaintiff sought production of original sale deed, vide document No.3910 of 1981. Under these circumstances, the revision petitioner/plaintiff would have obtained the certified copy of the said document and filed before the Court to seek remedy. But she did not choose to do so, for the reasons best known to her. The Court below, after examining the said submissions in detail, declined to grant the relief sought by the revision petitioner/plaintiff. In the given circumstances, the Court below is justified in passing the impugned orders. There is nothing to take a different view. Both the Civil Revision Petitions are devoid of merit and are liable to be dismissed.

9) Accordingly, both the Civil Revision Petitions are dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in both these CRPs shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 09.12.2019
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