

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

C.R.P.No.6664 of 2018

O R D E R:

This Revision is filed under Article 227 of the Constitution of India challenging the order dt.08.10.2018 in I.a.No.754 of 2018 in O.S.No.20 of 2014 of the V Additional Junior Civil Judge, Warangal.

2. Petitioners are defendants in the suit.

3. The suit was filed by the respondents for a perpetual injunction restraining the petitioners from interfering with the alleged peaceful possession and enjoyment of the respondents in respect of the suit schedule property.

4. In the plaint, respondents had contended that the suit schedule property is agricultural land.

5. Written Statement was filed by the petitioners stating that the subject land was not agricultural land by the date of filing of the suit and had been converted into house sites and no agricultural operations were being performed therein.

6. However, along with the written statement, it appears that no documents have been filed in support of the plea of the petitioners that the suit schedule property was no longer agricultural land and had been converted into plots.

7. After the evidence on the side of the respondents was concluded and the case was posted to 18.07.2018 for petitioners' evidence, petitioners filed I.A.No.754 of 2018 to receive certain

documents by condoning the delay in filing the same along with the written statement invoking Order VIII Rule 1(A)(3) of CPC.

8. Counter affidavit was filed by the respondents stating that there was no mention in the affidavit filed in support of the I.A.No.754 of 2018 by the petitioners as to the reason which prevented the petitioners from filing the documents along with the Written Statement.

9. By order dt.08.10.2018, the Court below dismissed the said I.A. It held that there is no reason assigned by the petitioners for the delay in filing the listed documents earlier, particularly, when they were very much in the custody of the petitioners.

10. Assailing the same, this Revision is filed.

11. Counsel for petitioners contended that in the Written Statement itself petitioners had pleaded that the land had ceased to be agricultural land and had been converted into house site plots, that there were houses constructed in the suit schedule land, and that house numbers were allotted and property tax payments were also received by the Grampanchayat, but inadvertently they were not filed. He also contended that certain documents were obtained pending the suit about the nature of the land and the petitioner should be permitted to file the said documents.

12. When the petitioners were aware that they needed to prove that the suit schedule property was non-agricultural land on the date of filing of the suit and they had documents, such as house tax

payment receipts, etc., available in their custody at that point of time, they ought to have filed them along with the written statement. No reason is assigned in the affidavit filed in support of the I.A.No.754 of 2018 why they were not filed earlier. Under Order VIII Rule 3(A)(1) CPC, it is incumbent on the part of the petitioners/defendants to file the said documents in support of their defense along with the Written Statement.

13. After the plaintiffs' side evidence is closed, petitioners cannot now be permitted to file documents and if this is permitted, grave prejudice would be caused to the respondents/plaintiffs.

14. I therefore 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.

15. Accordingly, this Civil Revision Petition is dismissed. No order as to costs.

16. Consequently, miscellaneous petitions pending if any shall stand dismissed.

M.S. RAMACHANDRA RAO, J

25th February, 2019.

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