

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

C.R.P. No.6829 of 2018

O R D E R:

This Revision is filed assailing the order dated 31.10.2018 in I.A.No.566 of 2018 in O.S.No.45 of 2012 of I Additional District Judge, Karimnagar.

2. The petitioner is the 1st defendant in the suit.
3. Respondents/plaintiffs filed the suit against the petitioner for declaration of title, recovery of possession and mandatory injunction directing the petitioner/1st defendant to demolish the structure erected by him in the suit schedule property.
4. Written statement was filed on 29.08.2012 by the petitioner/D.1 opposing the suit claim but along with the written statement no documents were filed on which the petitioner was relying.
5. After the evidence on the side of the respondents/plaintiffs was closed, the petitioner initially filed chief examination affidavit and thereafter on 08.11.2018 filed additional chief examination affidavit along with eleven documents.
6. He also filed I.A.No.566 of 2018 under Order VIII Rule 1-A (3) CPC seeking leave of the Court to receive the eleven documents by condoning the delay in filing the same. In that

application also, no reason was assigned as to why these documents were not filed along with the written statement filed by the petitioner on 29.08.2013.

7. This application was opposed by the respondents who contended that no reasons were assigned for filing these documents at belated state and therefore they cannot be received in evidence.

8. By order dated 31.10.2018, the Court below dismissed I.A.No.566 of 2018 holding that no reason has been assigned by the petitioner for late production of documents now sought to submitted by him particularly when they are sought to be filed more than 5 years after filing of the written statement.

9. Assailing the same, this Revision is filed.

10. Counsel for the petitioner contends that the Court below committed a grave error of jurisdiction in refusing to allow the application and serious prejudice would be caused to the petitioner if the said application is not allowed and the documents sought to be submitted by the petitioner are not received by the Court. He also stated that these documents had already been referred to in the written statement already filed by the petitioner and no prejudice will be caused to the respondents. He also placed reliance on judgments of this Court in ***M.R.Anjaneyulu v. R.Subramanyam Achary***¹ and

¹ 2012 (5) ALD 243

N.Premaiah and others v. Narmala Deva Raj and another².

10. Counsel for the respondents however refuted the above contentions and supported the order passed by the Court below.

11. I have noted the contentions of both sides.

12. Order VIII Rule 1-A CPC states that a defendant in a suit should file all the documents on which his defence rests, or on which he relies, at the time when he presents a written statement; and if he seeks to file them at a later point of time clause (3) thereof states that he should seek and obtain leave of the Court. This amendment was introduced w.e.f from 01.07.2002.

13. In the instant case though the suit for possession has been filed in 2012, the provisions of Order VIII Rule 1-A do not appear to have been noticed by the counsel appearing for the petitioner and also by the petitioner. Almost 6 years after filing of the written statement, without assigning any reasons as to why he could not file 11 documents submitted by him to the Court along with written statement, he cannot seek granted leave of the Court to file them at a later stage.

14. In ***M.R.Anjaneyulu's*** case (supra 1) learned Single Judge of this Court held as under:

² 2015 (4) ALT 729

“Clause (3) of Order VIII Rule 1A CPC was incorporated by Act 22 of 2002 with a view to discourage the practice of the parties filing documents at a belated stage of the proceedings. The law is well settled that procedure is handmaid of justice. While procedural laws need to be adhered to in order to avoid long delays in disposal of the cases, at the same time, the Courts will have to make a delicate balance between strict adherence to these procedural laws and the substantial justice that need to be ensured for the parties. In the anxiety to curb delays, stopping the parties from adducing relevant evidence would lead to failure of justice. However, fair amount of discretion is vested by Order VIII Rule 1A (3) CPC in the Courts to permit filing the documents. No hard and fast principles can be laid down for the Courts as to how this discretion has to be exercised. While exercising such discretion, the Courts will have to consider relevant aspects such as the conduct of the parties, the nature of the documents that are sought to be filed and whether by permitting filing such documents, the same will help the Court to adjudicate the suit in a more effective manner etc. The Court should also consider the stage at which the documents are sought to be filed.”

15. In the said decision, the Court held that no hard and fast principles can be laid down while exercising the discretion to grant leave under Order 8 Rule 1-A(3) CPC; and that the Court should consider relevant aspects such as conduct of the parties, nature of the documents that are sought to be filed and whether by permitting filing such documents would allow the adjudication of the suit in a more effective manner etc. It also observed that the Court should

also consider the stage at which the documents are sought to be filed.

16. The purpose of introducing the provisions of Order VIII Rule 1-A and Order VII Rule 14 CPC is to ensure that parties to a suit file the documents on which they are relying along with the written statement or plaint, so that the other party will not be taken by surprise during the trial. Otherwise disposal of the case would be delayed and would defeat the purpose for which the said amendments were introduced.

17. In the instant case, after 6 years of filing the written statement, I.A.No.566 of 2018 has been filed without even assigning any reason for the delay in filing the documents, that too after the evidence on the side of the respondents was closed. This would certainly cause grave prejudice to the respondents. If the petitioner had possession of these documents, and as it contended by the counsel for the petitioner that he has referred to the documents in the written statement also, he cannot withhold and seek to file them only after the evidence on the side of the respondents is closed. If such tactics are allowed, grave injustice would be done to the respondents.

18. In ***N.Premaiah's case*** (supra 2) while dealing with the same provision under Order VIII Rule 1-A (3) where also no reasons were assigned for not filing the documents along with

the written statement, certain observations were made that it is the advocates who draft affidavits and documents which are filed in the Court, and parties are mostly ignorant of the legal formalities required to be complied; and it was stated that Courts should be more pragmatic and give latitude while disposing of the application.

19. With great respect to the learned Judge who decided the said case, if in every case, parties are allowed to blame advocates for not filing the documents along with the written statement, in no case can Order VIII Rule 1-A (i) CPC be enforced. The advocates and parties are expected to know the provisions of CPC and act accordingly.

20. In this view, I do not see any merit in the Civil Revision Petition and it is accordingly dismissed at the admission stage. No costs.

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

M.S.RAMACHANDRA RAO, J

13.02.2019

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