

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

C.R.P.Nos.2150 and 2170 of 2019

COMMON ORDER:

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

2. CRP Nos.2150 and 2170 of 2019 are filed under Article 227 of the Constitution of India by the petitioners/defendants, challenging the common order, dated 17.04.2019, passed in I.A.Nos.1014 and 1015 of 2018 respectively in O.S.No.43 of 2013 by the II Additional District Judge, Nalgonda at Suryapet, whereby, the application filed by the respondent/plaintiff under Order VII Rule 14 read with Section 151 of CPC to receive the document, i.e., extract taken from the web page of http://www.iod.com/products/diesel_domestic_prices.asp relating to the diesel prices prevailing from 04th June 2002 to 15th August, 2015 (I.A.No.1014 of 2018) and the application filed by the respondent/plaintiff under Order XVIII Rule 17 read with Section 151 of CPC to recall P.W.1 for marking the said document, were allowed.

3. Heard learned counsel for both the sides and perused the record.

4. The learned counsel for the revision petitioners/defendants would contend that in the affidavit filed in support of the subject I.A.No.1014 of 2018, no single reason was assigned for belatedly filing the document sought to be received in evidence, i.e., extract taken from the web page of <http://www.iod.comp/products/diesel domesticprices.asp> relating to the diesel prices prevailing from 04th June 2002 to 15th August, 2015. After completion of cross-examination of P.W.1, the said document was pressed into service. Further, the diesel prices were of the years 2002 to 2015 and they have no relevancy for determination of the subject suit. If the Court below receives the document sought to be received in evidence, it would materially affect the case of the revision petitioners/defendants and ultimately prayed to set aside the common order under challenge and allow both the Civil Revision Petitions as prayed for.

5. On the other hand, the learned counsel for the respondent/plaintiff would contend that the document sought to be received in evidence is relevant for the purpose of determination of the subject suit, which relates to the dispute with regard to the payment of diesel prices between the years 2002 and 2015. The Court below is justified in receiving the said document in evidence. There is nothing to interfere with the common order under

challenge and ultimately prayed to dismiss both the Civil Revision Petitions.

6. In view of the above submissions, the point that arises for determination in both these Civil Revision Petitions is as follows:

“Whether the common order, dated 17.04.2019, passed in I.A.Nos.1014 and 1015 of 2018 in O.S.No.43 of 2013 by the II Additional District Judge, Nalgonda at Suryapet, is liable to be set aside?”

7. In the course of submissions, the revision petitioners/defendants did not dispute with regard to the certificate required under Section 65B of the Indian Evidence Act. The only dispute raised is that the subject interlocutory applications were allowed without assigning single reason, though the document in question was filed belatedly. Under these circumstances, it is appropriate to refer to the decision of the erstwhile common High Court for the States of Telangana and Andhra Pradesh in *Lukka Srinivasa Rao @ Venkateshwarlu v/ s Lukka Shivaiah*¹, wherein, this Court held as under:

“It is often said that procedure is the handmaid of justice. It is also said that procedural and technical hurdles shall not come in the way of the Court for doing substantial justice. Where procedural violations cause serious prejudice to the adversary party, the Courts need to view such violations seriously and uphold the objection(s) of the adversary party to prevent causing of such prejudice

¹ 2016 (1) ALT 36

to it. In contrast, if such procedural violations do not lead to such result, the Courts must lean towards doing substantial justice rather than relying upon procedural and technical violations.

Applying these settled legal principles to the present case, it is no doubt true that, as per the law that could be culled out from the precedents, the party who wants to produce the documents at a later stage of the suit proceedings, must satisfy the Court with convincing reasons that he was prevented by sufficient cause from producing the same earlier. However, in cases where such explanation is not effectively put forth and if the Court is convinced that the documents which are sought to be produced are essential for proper and effectual adjudication of the dispute and production of such documents at a belated stage would not prejudice the adversary party, it must overlook the failure of the party in putting forth convincing reasons.

(Emphasis supplied)

8. The dispute in the instant case is with regard to the diesel prices between the years 2002 and 2015. Copies of the documents taken from the web page, i.e., http://www.iod.com/products/diesel_domestic_prices.asp reveal the price of the diesel from the years 2002 to 2015. Both the parties are claiming different rates of diesel during that period. Now the question is whether the document in question is necessary for effective and complete adjudication of the subject matter of the suit and whether it can be received in evidence, even without assigning adequate reasons. The document in question reflects the diesel prices, however disputed by the other side, relating to the years 2002 and 2015. What price of diesel is payable can only be answered after due trial of the suit. In the given circumstances, though the document in question is

filed belatedly, it is required for just and complete adjudication of the subject matter of the suit. The Court below is justified in granting permission in terms of Order VII Rule 14 read with Section 151 of CPC to file the document in question and in terms of Order XVIII Rule 17 read with Section 151 of CPC to recall P.W.1 for marking the said document. There is no legal infirmity in the common order under challenge. The submissions made on behalf of the revision petitioner in both these revisions do not merit consideration. Both the revisions are devoid of merit and are liable to be dismissed.

9. In the result, both these 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.

27th January, 2020
Bvv

Dr. SHAMEEM AKTHER, J