

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

MONDAY, THE SIXTH DAY OF JUNE
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE SRI JUSTICE A.ABHISHEK REDDY

CIVIL REVISION PETITION NO: 1156 OF 2022

Petition under Article 227 of the Constitution of India, aggrieved by the Order dated.29.04.2022 made in I.A.No.190 of 2022 in O.S.No.101 of 2007 on the file of the Court of the Senior Civil Judge, Jangaon.

Between:

Chalamalla Swarna Latha, W/o. Ch. Srinivas Reddy, Aged about 61 Years,
Occ.Household, R/o. H.No.2-4-97, Road No.17, Snehapuri Colony, Nagole,
Hyderabad,

...Revision Petitioner/Defendant No.3

AND

1. Challa Aruna Devi, W/o. Raji Reddy, Aged about 57 years, Occ. Agriculture,
R/o.Nellutla Village, Lingala Ghanpoor Revenue Mandal, Jangaon District,
...Respondent/Plaintiff
2. Ramasahayam Jyothi Devi, W/o. Late Venkat Reddy, Aged about 65 years,
Occ.Agriculture, R/o. Nellutla Village, Lingala Ghanpoor Revenue Mandal,
Jangaon District.
3. Malipeddi Susheela Devi (Died).

Nos.1 and 2

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to grant stay of all further proceedings in O.S.No.101 of 2007 pending on the file of the Learned Senior Civil Judge, Jangaon, in the interest of justice.

Counsel for the Petitioner: SRI V. RAMAKRISHNA REDDY

Counsel for the Respondent No.1: SRI KANATHALA ASHOK REDDY

Counsel for the Respondent No.2: -----

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

CIVIL REVISION PETITION No.1156 of 2022

ORDER:

Aggrieved by the order dated 29.04.2022 passed by the Senior Civil Judge, Jangaon, in I.A. No.190 of 2022 in O.S. No.101 of 2007, the present Civil Revision Petition is filed by the petitioner-defendant No.3.

Heard Sri V. Ramakrishna Reddy, learned counsel for the revision petitioner and Sri Kanathala Ashok Reddy, learned counsel for respondent No.1.

Vide impugned order, the lower Court dismissed the application filed by the petitioner herein under Section 151 of the Code of Civil Procedure for reopening the suit for leading evidence of the petitioner-defendant No.3, on the ground that the petitioner has filed the said application at belated stage without any sufficient and valid reason only to drag on the matter.

Learned counsel for the petitioner has stated that the counsel appearing for the petitioner in the lower Court did not inform the petitioner about the stage of the case and therefore the petitioner was not aware that the case is coming for the evidence of the petitioner. Further, the petitioner has also suffered with Covid-19 and therefore she could not personally attend the Court to know the stage of the case. Learned counsel has further stated that as soon as the petitioner came to know about the closure of evidence on her

behalf, she has acted immediately and there is no intention on the part of the petitioner to drag on the matter.

Per contra, the learned counsel appearing for the caveator has vehemently opposed the revision and supported the impugned order passed by the lower Court. Learned counsel has further stated that originally the suit is of the year 2001 and that after the closure of the petitioner's evidence, the matter was posted for arguments. At that stage, the present petition has been filed only to drag on the matter. Learned counsel has also stated that the petitioner has not shown her bonafides by filing any chief affidavit or any medical certificate to substantiate that the petitioner has suffered from Covid-19, as stated by her and therefore prayed to dismiss the CRP.

Perused the record.

A perusal of the material on record reveals that the petitioner herein is arrayed as defendant No.3 in the main suit. The evidence on behalf of defendant No.1 was closed on 22.02.2022 and thereafter the matter was posted to 25.02.2022 for the evidence of the petitioner herein. On that day, the counsel for the petitioner appearing in the lower Court has sought time till 03.03.2022 for adducing evidence of the petitioner herein. On 03.03.2022 as it was reported by the learned counsel for the petitioner that the petitioner does not wish to adduce any evidence, the evidence on behalf of the petitioner was closed and the matter was posted for arguments.

Admittedly, in the present case, after the closure of the evidence on behalf of defendant No.1 on 22.02.2022, only one adjournment was granted and the time lag between the date of closure of evidence on behalf of D.1 and the closure of petitioner's evidence is only 10 days. Thereafter, the I.A. seeking reopening of the evidence was filed on 29.04.2022. There is no denial of the fact that the entire country is going through various stages of Covid-19 pandemic and the periodic lockdowns were also imposed by the Government from time to time. Therefore, it cannot be said that the petitioner has filed the present I.A. only to drag on the matter.

This Court as well as the Hon'ble Supreme Court in a catena of cases have held that whenever a petition for reopening of the evidence is filed, the Courts should not take a pedantic view and the same should be dealt in a pragmatic manner and such petitions should not be dismissed on some technical or procedural grounds. That the Courts should endeavor to see that substantial justice is done to the parties. As the suit filed is for declaration of title and recovery of possession of the suit schedule property, in case the petitioner is not allowed to lead evidence, there are every chances of the petitioner's stand getting negatived due to lack of evidence from her side.

In view of the above, this Court is of the opinion that ends of justice would be met if an opportunity is afforded to the petitioner to

lead evidence on her behalf by filing chief affidavit, however, by fixing some timeframe.

Therefore, the impugned order, dated 29.04.2022, is set aside, by imposing costs of Rs.5,000/- payable by the revision petitioner to the plaintiff-respondent No.1 on or before 15.06.2022. On such costs being paid, the petitioner is permitted to file chief affidavit in O.S. No.101 of 2007 on or before 15.06.2022 duly serving a copy of the same on the learned counsel for the plaintiff and other contesting defendants. Thereafter, the petitioner shall appear before the lower Court for cross-examination on the date fixed by the lower Court. In case, the petitioner fails to pay the amount/file the chief affidavit, as directed by this Court, the lower Court shall proceed with the hearing of the matter, on its own merits, in accordance with law.

The Civil Revision Petition is allowed to the extent indicated above.

Miscellaneous petitions pending, if any, shall stand closed.

There shall be no order as to costs.

SD/-V.KAVITHA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Senior Civil Judge, Jangaon.
2. One CC to Sri V. Ramakrishna Reddy, Advocate [OPUC]
3. One CC to Sri Kanathala Ashok Reddy, Advocate [OPUC]
4. Two CD Copies
5. One Spare Copy

MMK

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HIGH COURT

DATED:06/06/2022

ORDER

CRP.No.1156 of 2022



ALLOWING THE CIVIL REVISION PETITION .

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