

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

FRIDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE ANIL KUMAR JUKANTI

CIVIL REVISION PETITION NO: 2963 OF 2023

Petition Under Article 227 of the constitution of India set aside by the Order dated 22/08/2023 in I. A. No. 168 of 2019 in OS No.105 of 2018 on the file of the Court of the Junior Civil Judge, Kodangal.

Between:

1. Sri Somaiah, S/o. Narsaiah, Aged about 45 years, Occ Agriculture, R/o. Bichal Village, Doulatabad Mandal, Vikarabad District
2. Smt. Narsingamma, W/o. Somaiah Aged about 43 years, Occ Agriculture, R/o. Bichal Village, Doulatabad Mandal, Vikarabad District
3. Ananthaiah, S/o. Narsaiah Aged about 50 years, Occ Agriculture, R/o. Bichal Village, Doulatabad Mandal, Vikarabad District
4. Bandeppa, S/o. Narsaiah Aged about 40 years, Occ Agriculture, All are R/o. Bichal Village, Doulatabad Mandal, Vikarabad District

...Petitioners

AND

Smt. Gangolla Laxmi, W/o. Ramulu, Aged about 45 years, Occ Agriculture
R/o. Bichal Village, Doulatabad Mandal Vikarabad District

...Respondent/Plaintiff

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings of the OS No. 105 of 2018 and also the Orders dated 22/08/2023 in I.A.No.168 of 2019 in OS No.105 of 2018 passed by the Junior Civil Judge, Kodangal pending disposal of the CRP and to pass

Counsel for the Petitioners : Sri G Narendra Reddy

Counsel for the Respondent: Sri Ravindar Naik K

The Court made the following: ORDER

THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI

CIVIL REVISION PETITION No.2963 OF 2023

ORDER:

This Civil Revision Petition is filed seeking a direction to set aside the Orders dated 22.08.2023 in I.A.No.168 of 2019 in O.S.No.105 of 2018 passed by learned Junior Civil Judge, Kodangal and permit the petitioners to pay costs of Rs.500/- and contest the suit.

2. Learned counsel Shri G.Narender Reddy representing revision petitioners/defendants and learned counsel Shri Ravinder Naik for respondent/plaintiff.

3. Brief facts:

Respondent/plaintiff instituted a suit for perpetual injunction on the ground that on 10.08.2018 at about 11:00 A.M when respondent/plaintiff was clearing the land for the next crop, the revision petitioners/defendants came to the suit land and tried to dispossess the respondent/plaintiff and hence, the suit. Along with the said suit, an application was filed to grant an interim

injunction against the revision petitioners dispensing urgent notice.

3.2. Petition schedule property is land bearing Survey No.103/A dry Acres 9.10 gts. situated at Bichal Village, Dowlathabad Mandal, Vikarabad District. A counter affidavit was filed by revision petitioners stating that the suit was instituted by not disclosing the real facts of the origin of suit properties and the relationship between the revision petitioners and respondent/plaintiff and also by not describing and not disclosing the joint rights of revision petitioners and respondent/plaintiff along with other family members. The suit was filed in the month of August, 2018.

3.3. Revision petitioners herein filed a suit for partition and separate possession on 19th November, 2018 with respect to properties in schedule A, B and C of the suit. Suit came to be filed by revision petitioners, when they learnt about the entries of defendant No.2 (respondent/plaintiff in the present C.R.P) and respondent No.3 in the revenue records and as such called the defendants in suit No.112 of 2018 for amicable partition at

Bichal village in the month of June, 2018. The plaintiff in suit called for a panchayath, but, it was in vain and as such the cause of action arose for the suit.

3.4. Interlocutory application No.168 of 2019 came to be filed by revision petitioners/defendants in suit, OS No.105 of 2018 seeking a direction to set aside the ex-parte order passed on 02.01.2019 and to permit to file written statement so as to proceed with the case.

3.5. By docket order dated 06.04.2021, Junior Civil Judge, Kodangal, passed the following order:

"Both parties are called absent, I.A.No.168 of 2019 was conditionally allowed on payment of costs of Rs.500/- to Mandal Legal Services committee to be paid on or before 22.04.2021 and the matter was posted to 06.05.2021."

By docket order dated 19.10.2022, Junior Civil Judge, Kodangal, passed the following order:

"Both parties are called absent, at request of learned both counsels for filing of draft issues, call on 24.11.2022".

By docket order dated 24.11.2022, Junior Civil Judge, Kodangal, passed the following order:

"Both parties are called absent, at request of learned counsels for hearing of issues, call on 20.04.2023".

By docket order dated 20.04.2023 in I.A.No.168 of 2019 in OS No.105 of 2018 Junior Civil Judge, Kodangal, passed the following order:

"Both parties are called absent, at request of learned both counsels for hearing, call on 22.08.2023".

By docket order dated 22.08.2023, Junior Civil Judge, Kodangal, passed the following order:

"Perused the record, I.A.No.168 of 2019 was allowed on 06.04.2021 on payment of costs of Rs.500/- to MLSC payable on or before for 26.04.2021 04:00 P.M. Perusal of the record. Hence the petition was dismissed for nonpayment of costs as for orders in I.A.No.168 of 2019 for ex-parte evidence, call on 18.09.2023 and the matter".

3.6. Challenging the order dated 22.08.2023, present CRP is filed.

4. Learned counsel representing the revision petitioners/defendants contended that the revision petitioners could not comply with the order dated 06.04.2021 (wherein I.A.No.168 of 2019 was allowed conditionally on payment of Rs.500/- to MLSC to be paid on the on or before 22.04.2021) due to Covid pandemic. But, for the pandemic revision petitioners/defendants

would have paid the amounts to MLSC, and complied the order.

5. Learned counsel for the respondent/plaintiff submitted that Courts were functioning during the time of Covid with standard operating procedure (SOP) in place, being followed. That the revision petitioners have not complied with the conditional order on the pretext of the Covid pandemic is only a lame excuse to drag the proceedings of the suit. It is further submitted that Courts functioned even during Covid pandemic except for few months when the pandemic was at its peak. That, the revision petitioner(s) having kept quiet for more than 2 ½ years are now raising frivolous grounds. The CRP is liable to be dismissed for delaying the proceedings of suit for a period of 2 ½ years.

6. Heard the learned counsels, perused the record and the docket orders passed on various dates by the Junior Civil Judge, Kodangal. Suit filed is of the year 2018, I.A.No.168 of 2019 in OS No.105 of 2018 has been filed on

24.01.2019. Conditional order was passed allowing I.A.No.168 of 2019 on payment of costs of Rs.500/- to MLSC on or before 22.04.2021, the revision petitioners did not comply with the order for a period of 2 ½ years which is a fact borne by record.

7. When this Court expressed its displeasure for non compliance of a simple conditional order, the counsel contended that because of Covid pandemic the revision petitioners were unable to comply. This Court is utterly shocked at the submissions made by the counsel for revision petitioners/plaintiffs. No reasonable person would believe the version of the revision petitioners. Covid pandemic came to an end way back in 2022, even from March, 2020 till January, 2022 except during the peak Covid pandemic periods Courts were functioning by strictly observing the standard operating procedure prescribed by the Registry of State High Court. It is a fact borne by record that a number of Courts in the entire country functioned dispensing justice during the period of Covid.

8. The non compliance by revision petitioners is an act of willful disobedience of the simple conditional order of Court only with an intention to prolong the suit proceedings. Such an act of non compliance and the ingenious submission can only be said to be devoid of merits.

9. This Court was not inclined to grant any relief initially. The counsel appearing on behalf of the revision petitioners urged that injustice would be done if the CRP is dismissed and that the parties would pay costs if any imposed. The petitioners counsel has submitted that the revision petitioners would pursue the matter diligently without seeking any further time till the final disposal of the suit.

10. Having given a thoughtful consideration to the submissions made, this Court is of the considered opinion that a costs of Rs.50,000/- would suffice, taking into account the fact that the other party in the suit has suffered for the lapses, omissions and delaying tactics adopted to protract the litigation by the revision petitioners

for a period of 2 ½ years, that too, for compliance of a simple conditional order. The conduct of the revision petitioners is far from satisfactory and is a clear case of tactics of delaying the proceedings in the suit. This Court has no hesitation in holding the revision petitioners guilty of delaying the suit proceedings.

11. On payment of such costs, I.A.No.168 of 2019 in OS No. 105 of 2018 shall be restored on the file of Junior Civil Judge, Kodangal. The costs of Rs.50,000/- (Rupees Fifty Thousands only) shall be paid by the revision petitioners to the respondent/plaintiff in suit O.S.No.105 of 2018 within a period of (02) weeks from the date of receipt of a copy of this order and a memo shall be filed to the extent in the Court of Junior Civil Judge, Kodangal, adducing proof of such payment. Needless to say that if revision petitioners do not comply with the order within the said period of two weeks from the date of receipt of a copy of this order, I.A.No.168 of 2019 in OS No. 105 of 2018 shall stand dismissed.

12. For the reasons stated above the CRP is allowed restoring I.A.No.168 of 2019 in OS No.105 of 2018 on the

file of Junior Civil Judge, Kodangal, if and only if the costs are paid within a period of two (02) weeks from the date of the receipt of a copy of this order. Non compliance would invite the consequences as stated above.

Sd/- Mohd. Sanaula Ansari
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Junior Civil Judge, Kodangal
2. One CC to Sri G Narender Reddy, Advocate [OPUC]
3. One CC to Sri Ravindar Naik K, Advocate [OPUC]
4. Two CD Copies

ADK/BP



HIGH COURT

DATED: 29/12/2023

ORDER

CRP.No.2963 of 2023



ALLOWING THE CIVIL REVISION PETITION

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