

**HIGH COURT FOR THE STATE OF TELANGANA :
HYDERABAD**

CIVIL REVISION PETITION NO.7671 OF 2018

Between:

1. Pallepati Narasaiah, S/o. Late Narayana, 76 yrs,
Agriculture, R/o.Ankireddypally Village, Keesara Mandal
R.R. District and six others.

.... Petitioners

Vs.

1. P.Satyanarayana, S/o. Late Balaiah, 68 yrs, Agriculture,
R/o.Sampanabole Village, Shamirpet Mandal, R.R. District and six
others.

.... Respondents

DATE OF JUDGMENT PRONOUNCED: 01.08.2019

SUBMITTED FOR APPROVAL:

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

1. Whether Reporters of Local newspapers may be allowed to see the Judgments?
2. Whether the copies of judgment may be marked to Law Reports/Journals?
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment?

JUSTICE M.S.RAMACHANDRA RAO

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

CIVIL REVISION PETITION NO.7671 OF 2018

% Dated 01.08.2019

Between:

1. Pallepati Narasaiah, S/o. Late Narayana, 76 yrs,
Agriculture, R/o.Ankireddypally Village, Keesara Mandal
R.R. District and six others.

.... Petitioners

And

\$ 1. P.Satyanarayana, S/o. Late Balaiah, 68 yrs, Agriculture,
R/o.Sampanabole Village, Shamirpet Mandal, R.R. District and six
others.

.... Respondents

! Counsel for the petitioners : Mr. M. Anand Kumar

^ Counsel for respondents 1 to 4 : Mr. K. Jagadeshwar Reddy

Counsel for respondents 5 to 7 : None appeared

<GIST:

> HEAD NOTE:

? Citations:

1. 2012(5) ALD 243
2. 2009(3) ALT 236
3. 2011(6) ALT 299

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO**CIVIL REVISION PETITION NO.7671 OF 2018****ORDER:**

This Revision is filed under Article 227 of the Constitution of India challenging the order dt. 03.12.2018 in I.A.No.695 of 2018 in O.S.No.113 of 2013 on the file of the V Additional District Judge at Bhongir.

Petitioners are plaintiffs in the suit. They filed the said suit for partition and separate possession of the suit schedule property. After the evidence on the side of the petitioners was closed and at the time when defendants'/respondents' evidence has commenced, the respondents filed I.A.No.695 of 2018 to receive certain documents invoking Order VIII Rule 1-A of the Code of Civil Procedure, 1908 (CPC).

In the affidavit filed in support of the said application, they did not give any reason why they could not file these documents along with the written statement. They merely stated that the case was posted on that date for their further evidence and they were filing these documents.

Petitioners opposed the said application stating that no reason is assigned as to why documents could not be filed earlier.

By order dated 03.12.2018, the Court below allowed the said application on payment of Rs.250/- in the following manner.

“Heard both sides. Perused the records. There is no tenable grounds in the counter to dismiss this petition. In view of the reasons stated in the affidavit, the documents are public documents obtained by the petitioner from concerned Authority. The documents may be received subject to proof and relevancy subject to costs of Rs.250/- to other side, in the interest of justice. In the result this petition is allowed.”

Assailing the same, this Revision is filed.

Counsel for the petitioners contends that unless reasons are assigned for filing documents along with I.A.No.695 of 2018, which were not filed earlier along with the written statement, the Court below cannot allow I.A.No.695 of 2018. He also pointed out that there is a specific plea taken by the petitioners that no reason is assigned for not filing these documents earlier by the respondents.

I find considerable force in the said contentions.

After the amendment of the Code of Civil Procedure by Act 22 of 2002 w.e.f. 01.07.2002, it is incumbent on the part of a defendant who bases his defence on document, or relies upon any document in his possession or power in support of his defence, to produce it along with his written statement, and also file a copy of it; and if he did not produce it along with the written statement, without the leave of the Court, he cannot file it later {Order VIII Rule 1A (1 & 3) CPC}. The reason for this rule is that both parties should go to trial knowing each others' documents and neither

party can take the other by surprise at a later stage after his evidence is completed.

Though Mr. K. Jagadeshwar Reddy, counsel for the respondents, sought to rely on the judgment in **M.R. Anjaneyulu v. R. Subramanyam Achary**¹ to contend that there is no hard and fast rule in the aspect of permitting parties to file documents, and even if the reason furnished by a party for not filing his documents along with his pleadings is vague, it may be permitted, I do not agree with the said view.

Cases like the instant case, where the evidence of the respondent/plaintiff is completed when the application is filed by the respondents/defendants to mark new documents which were not filed along with the written statement, would cause grave prejudice to the petitioners because they do not have opportunity to controvert them. If they had known about these documents, they would have also filed documents in support of their case to meet the documents now sought to be produced by the respondents.

In **Ravi Satish v. Edala Durga Prasad**², this Court held as under:-

“Sub-rule (3) of Rule 1-A of Order VIII permits the documents to be received only on leave being granted by the Court. Grant of leave is not for the mere asking, nor is the Court a mere Post-Office to receive documents even in the absence of any reasons being furnished for failure to file the said documents along with the written statement.

¹ 2012(5) ALD 243

² 2009(3) ALT 236

Admittedly, in the case on hand, no reasons whatsoever have been furnished by the petitioner, let alone adequate cause been shown as to why the documents, which could not be filed earlier along with the written statement. Having chosen not to give any reasons, it is not open to the petitioner to contend that the Court below should have received the documents, since the petitioner's right could be adversely affected for failure on its part to receive the documents. While it is no doubt true that admissibility and proof of documents are matters which ought not to be gone into at the time of receipt of documents, the fact, however, remains that the leave sought for can only be granted on adequate reasons being furnished justifying failure on the part of the applicant in not filing the documents along with the written statement earlier.”

Counsel for the respondents also relied on **Voruganti Narayana Rao v. Bodla Rammurthy**³. In that case also, this Court has taken the view that grant of leave under Order VIII Rule 1A(3) CPC for filing documents belatedly cannot be granted for mere asking and the Court is not a mere post-office to receive documents even in the absence of any reasons furnished for failure to file the said documents along with the written statement. It observed that only if party is prevented by circumstances beyond his control to file the documents along with the written statement, the Court may consider allowing the defendant to file documents subsequently.

³ 2011(6) ALT 299

In this view of the matter, the Revision is allowed. Order dated 03.12.2018 in I.A.No.695 of 2018 in O.S.No.113 of 2013 on the file of the V Additional District Judge at Bhongir is set aside and the said I.A. is dismissed.

There shall be no order as to costs. Miscellaneous applications, if any, pending shall stand closed.

(M.S.RAMACHANDRA RAO, J)

1st August 2019

NOTE: LR Copy to be marked
B/O
RRB

