

*** THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI**

+ CRP.NO.1251 OF 2022

% 24.08.2022

PUSALA VENKAT REDDY S/O GANGA REDDY

.. PETITIONER

And

\$ PUSALA SANGA REDDY S/O KISTA REDDY

.. RESPONDENT

! Counsel for the petitioner : Sri Vijay B.Paropkari

Counsel for respondents : Sri R.A.Achutanand

< Gist :

> Head Note :

? Citations:

1. {MANU/AP/0736/2009}
2. {MANU/AP/0568/2015}
3. {MANU/AP/0393/2017}
4. 2014(2) ALD 184
5. CRP Nos. 5872 of 2018 and batch dated 10.12.2018
6. {Civil Appeal No.4096 of 2022 @ SLP (C) No.7452 of 2002 dated 17.05.2002}

DATE OF JUDGMENT PRONOUNCED : 24—08—2022

SUBMITTED FOR APPROVAL:

THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

1. Whether Reporters of Local Newspapers : Yes / No
may be allowed to see the Judgments ?
2. Whether the copies of judgment may be : Yes / No
marked to Law Reporters/Journals
3. Whether Their Lordship wish to : Yes / No
see the fair copy of the Judgment ?

THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI**C.R.P.NO.1251 OF 2022****ORDER**

Assailing the order and decree dated 04.05.2022 passed by the court of Junior Civil Judge at Bichkunda in I.A.No.66 of 2022 in O.S.No.27 of 2017 in refusing to receive the document filed by the defendant, the present revision is filed under Article 227 of the Constitution of India.

2. The revision petitioner herein is the defendant and the respondent is the plaintiff. The plaintiff filed O.S.No.27 of 2017 on the file of Junior Civil Judge at Bichkunda against the defendant for declaration of title and for recovery of possession of the suit schedule property.

3. The case of the plaintiff is that originally their paternal grandfather late Pusala Ram Reddy is the owner and possessor of the agricultural land to an extent of Acs.8.06 gts. situated in Sy.No.38, Babalgom village of Kangtimandal, the then Jukkal Mandal of Nizamabad District at present Sangareddy District.

4. The said late Ram Reddy had two sons i.e., late Pusala Gangareddy and late Pusala Kista. The total extent of Acs.8.06 gts. was partitioned between the said two brothers, and each of them got As.4.03 gts. and Kasara Pahani for the year 1955 discloses that said partition.

5. Late Pusala Gaga Reddy had two sons i.e., P.Sangareddy Reddy and the Defendant i.e., Pusala Venkat Reddy, and that out of Acs.4.03 gts., they got 2.1 ½ gts., of land each. The plaintiff is the son of late Pusala Kista Reddy, who is the second son of late Ram Reddy, and he is entitled to Acs.4.03 gts.

6. The grievance of the plaintiff is that the defendant, with a *mala fide* intention, got his name mutated in the revenue records as pattadar and possessor, even in respect of land, which fell to the share of the plaintiff i.e., to an extent of Acs.4.03 gts., and certified copies of pahanies obtained by him for the years 2007-8, 2012-13, 2013-14 and also the online pahanies, show the said entries. The further case of the plaintiff is that the defendant never allowed him to cultivate the land that fell to his share.

7. With these averments, the plaintiffs filed the suit for declaration of title and for recovery of possession.

8. On the other hand, the case of the defendant in the written statement is that the entire extent of Acs.8.06 gts is the self-acquired property of his father i.e., late P. Gangareddy, and his name was also entered in the revenue records as owner and possessor, and that he perfected his title, and that he has been in continuous possession since from the year 1958-59, and that after his death, the property was divided between this defendant and his brother, and that his brother relinquished his right under memorandum of agreement dated 17.06.2005, and thereafter the entire extent was recorded in his name vide ROR proceedings No.20/2007 dated 5.10.2007. With these averments, he sought to dismiss the suit.

9. During trial, the evidence of plaintiff is completed and the suit is coming up for the evidence of the defendant. At this stage, the defendant filed the present I.A.No.66 of 2022 in O.S.No.27 of 2017, seeking to receive the Record Order in Memo No.A/Record/2017 dated 24.08.2017.

10. His case is that the said document is in possession of the Revenue Department and as such he could not submit at the time of filing of the suit and that the said document is crucial to prove his claim over the suit schedule property.

11. On the ground that the said document was issued on 24.08.2017 i.e., much prior to the filing of the written statement by the defendant, and that it is not his case that he received the said document after filing of the written statement, and that there is also no reference to this document in the written statement, the trial court refused to receive the said document and dismissed the application vide order and decree dated 4.5.2002. Assailing the same, the defendant filed the present revision.

12. Learned Sri Vijay B Paropkari, learned counsel for the revision petitioner, submits that the suit is for declaration of title and for recovery of possession and the defendant filed written statement making averments with regard to possession, and he also pleaded with regard to the proceedings issued by the revenue authorities to assert his possession. In fact, the possession of the defendant, was also admitted by the plaintiff. He submits that the revenue authorities have issued record order dated 24.08.2017 showing the possession of the father of the defendant right from the year 1954-55 to 2016-17. As this document was in the possession of the revenue authorities, the defendant could not file the same along with the written statement, and he also could not refer to the same in the averments made in the written statement. He submits that mere non-filing of the document along with the written statement will not disentitle to file the document at a later stage. He submits that there are pleading with regard to possession and the present document sought to

receive is a crucial document, which will strength the case of the defendant with regard to his possession. But the trial court without appreciating the same and only on the ground that there is delay, and that there is also no reference of the document in the written statement, refused to receive the same. Therefore, he sought to set aside the impugned order, and to direct the trial court to receive the document.

13. On the other hand Sri R.A.Achuthanand, learned counsel for the respondent – plaintiff submits that the present revision is filed under Article 227 of the Constitution of India, where-under the jurisdiction of this court is supervisor, to consider whether the trial court has committed any jurisdictional error while passing the impugned order. He submits that under Order 8, Rule 1-A, the defendant is required to file all the documents, which he relies upon, along with the written statement, and under sub-rule (3) of Rule 1-A, if the said documents could not be produced along with the written statement, subsequently the said document could be received in evidence, only with the leave of the court. For granting leave, the defendant has to show 'sufficient cause' for not filing the document along with the written statement. In the present case, there is no reference of the document sought to be received, in the averments made in the written statement, and the trial court found that the said document was issued by the revenue authorities even prior to the filing of the written statement by the defendant. In such circumstances, there is no justification on the part of the defendant to seek the leave of the court to receive the document in question, at the stage of evidence of the defendant. Considering all these circumstances, the trial court, having found that the defendant has not shown any 'sufficient cause' for granting leave, rejected to receive the

document. Hence, it cannot be said that the trial court has committed any jurisdictional error for interference of this court under Article 227 of the Constitution of India. Therefore, he sought to dismiss the revision. In support of his contentions, learned counsel relied also on the judgments reported in **RAVI SATISH vs. EDALA DURGA PRASAD** {1. MANU/AP/0736/2009}, **R.SARASWATHI vs. P.RAJAMANIKYAM** {2. MANU/AP/0568/2015} and **MANGING DIRECDTOR, APSRTC AND ORS. vs. P.V.SURYA NARAYANA** {3. MANU/AP/0393/2017}.

14. Having regard to the facts and circumstances of the case and rival submissions, the issue that arises for consideration is whether the impugned order requires to be interfered with?

15. There is no dispute that under Order 8, Rule 1-A CPC., it is the duty of the defendant to produce documents upon which relief is claimed or relied upon by him along with the written statement, and under sub-rule (3) of Rule 1-A, a document which ought to be presented in court by the defendant under this Rule, but, is not so produced, shall not, without the leave of the court, be received in evidence on his behalf at the hearing of the suit. For granting the leave of the court for receiving such document, the defendant has to show 'sufficient cause'. There is also no dispute that what constitutes a 'sufficient cause' will depend upon the facts and circumstances of that particular case, and no straitjacket formula can be evolved in all the cases. This is the law laid down by learned single Judges of this court in the decisions referred to supra, relied on by the learned counsel for the respondent – plaintiff.

16. In the present case, the document which the defendant is seeking to receive is a Record Order passed by the Tahsildar, vide Memo No.A/Record/2017 dated 24.08.2017, which is a public document, and which is issued by a competent authority. There are averments in the written statement with regard to possession over the subject property, and the defendant also relied on a proceedings issued by the revenue authorities vide ROR. No.20/2007 dated 5.10.2007. The further case of the defendant is that the father of the defendant is in continuous possession since 1958-59 and that after his death, the property was divided between him and his brother, and that his brother relinquished his right under memorandum of agreement dated 17.06.2005. Now by virtue of the present order issued by revenue authorities, his claim is that the name of his father is reflecting in the revenue records as owner and possessor of the suit schedule property from 1954-55 to 2016-17. Further, it could be seen that as per the plaint averments, the case of the plaintiff is that the defendant with a *mala fide* intention got his name mutated in the revenue records, and he also stated that the certified copies obtained by him showed the name of the defendant as pattadar and possessor in the pahanies for the years 2007-08, 2012-13, 2013 -14. In the light of these pleadings, which are already available on record, I am of the considered view, that the document in question, which is a public document, is crucial, however, subject to proof, admissibility and relevance, for resolving the controversy in the suit.

17. The case of the defendant for not filing the said document at the time of filing written statement is that it is with revenue officials. Having regard to the facts and circumstances of the case, I am of the considered view, that merely not referring to this document in the written statement, and the delay in filing the same, cannot

be said to be fatal, and on these grounds, the document in question, cannot be rejected.

18. Considering similar facts and circumstances, a learned single Judge of the erstwhile High Court of Andhra Pradesh in **JOHN SANTIYAGO AND OTHERS vs. CLEMENT DASS** {4. 2914(2) ALD 184}, held as under:

“It is well settled principle that in case ‘sufficient cause’ is shown for filing the documents at the hearing of the suit and/or at the end of the trial, *such cause* shown should receive a liberal construction so as to advance the cause of substantial justice, more particularly when the documents sought to be filed, in the opinion of the court, are relevant and may have bearing on the aspects to be taken into consideration for the determination of the real controversy and the principal issue/s involved in the matter/suit. And what constitutes a sufficient cause always depends upon the facts and circumstances of a particular case. Hence, the application need not be rejected merely on the ground of delay/long delay, but the test shall be whether sufficient cause is made out for the delay.”

19. In the present case, as already noted above, the only reason shown by the defendant is that the document in question is with the revenue authorities and there is delay in filing the same. Having regard to the pleadings on record, and nature of the document, which is a public document, and also nature of the suit, this court is of the considered view that the said document is relevant and has a bearing on the issue in controversy, and further in order to advance the cause of substantial justice, liberal approach has to be extended to the cause shown by the defendant, and it can be treated as sufficient cause.

20. In the decision in **L.SUJATHA vs. E.SUBRAMANYAM NAIDU** (5. CRP.Nos.5872 of 2018 and batch dated 10.12.2018), the same learned single Judge of the erstwhile High Court of A.P., relying the above judgment of the learned single Judge (4 supra), it was held as under:

“6. Admittedly the document being sought to be filed is a copy of a suit register, which is a public document. According to the plaintiff it may have a bearing on the aspects to be taken into consideration for determination of the real controversy and also the principal issues involved in the suit. If the applications of the plaintiff are allowed and an opportunity is given to place such proposed evidence on record, the entire oral and documentary evidence would be before the trial court and the same may be helpful in arriving at a just decision in the matter. Having regard to the nature of the document, which is being sought to be filed by the plaintiff, and as the suit is still pending before the trial court, this Court considers it just and fair to allow the requests of the plaintiffs.”

21. Further in the decision reported in **LEVAKU PEDDA REDDAMMA vs. GOTTUMUKKALA VENKATA SUBBAMMA** {6. Civil Appeal No.4096 of 2022 @ SLP (C) No.7452 of 2002 dated 17.05.2002} the Apex Court while considering the order of the trial court in refusing to permit the appellant - defendant therein to produce additional document in terms of Order VIII, Rule 1 of CPC, held as under:

“We find that the trial court as well as the High Court have gravely erred in law in not permitting the defendants to produce documents, the relevance of which can be examined by the trial court on the basis of the evidence to be led, but to deprive a party to the suit not to file documents even if there is some delay will lead to denial of justice.

It is well settled that rules of procedure are hand-maid of justice, and, therefore, even if there is some delay, the trial court should have imposed some costs rather than to decline the production of the document itself.

Consequently, the appeal is allowed. The orders passed by the trial court and the High Court are set aside. The appellants – defendant Nos.2 to 5 are permitted to file the documents and to prove the same in accordance with law.

Mr. Nazki states that the plaintiffs-respondents should be permitted to lead additional evidence, if any, on the basis of the documents now produced by the defendants. We accept the request. The plaintiff shall lead additional evidence, if any, before the defendants are given an opportunity to lead evidence to rebut the evidence produced by the plaintiff.”

22. Having regard to the facts and circumstances of the case, and for the foregoing reasons, and in the light of the law laid down by this Court, and particularly that of the Apex Court, the impugned order and decree of the trial court requires to be set aside. The issue framed is answered accordingly.

23. In the result, the impugned order is set aside and the I.A. 66 of 2022 in O.S.No.27 of 2017 is allowed. Consequently, the defendant is permitted to file the Record Order in Memo No.A/Record/2017 dated 24.08.2017 and to prove the same in accordance with law.

24. The plaintiff / respondent is permitted to lead additional evidence, if any, on the basis of the document now produced by the defendant/revision petitioner before the defendant is given an opportunity to lead evidence to rebut the evidence produced by the plaintiff.

25. It is made clear that the record dated 24.08.2017 is received on file, subject to proof, admissibility and relevancy.

26. It is also made clear that any observation made in this order is only for the disposal of the revision and shall have no bearing on the disposal of the suit, and the trial court shall dispose of the suit on merits, based on evidence, and in accordance with law, uninfluenced by any observation or finding, if any, made in this order.

27. The revision petition is accordingly allowed.

28. Interlocutory Applications pending, if any, shall stand closed. No order as to costs.

M.G.PRIYADARSINI,J

DATE: 24 --08--2022

AVS

Note: L.R. copy to be marked.