

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

+ CIVIL REVISION PETITION No.2363 OF 2023

% Dated 28.03.2024

Dodda Jesintha
W/o.George Reddy, Aged: 71 years,
Raghunathpalli Village and Mandal,
Jangaon District.

....Petitioner

VERSUS

\$ Yelapati Rathnaker Reddy
S/o.Ram Reddy, Aged: 45 years,
R/o.Nidigonda Village,
Raghunathpally Village and Mandal,
Jangaon District and another.

... Respondents

! Counsel for Petitioner : Mr.K.Devender

^ Counsel for Respondents : R.K.Chitta

< GIST:

> HEAD NOTE:

? CITATIONS:

1. 2004 (1) KCCR 539
2. 2014 (4) AD (Del) 90
3. (2018) 2 SCC 347
4. 2020 (2) ALT 215 (S.B.)
5. 2019 (5) ALT 226 (S.B.)
6. 2012 (5) ALD 23
7. (2020) 10 SCC 706
8. Civil Appeal No.4096 of 2022 @ SLP (C) No.7452/2022
9. 2004 (1) ALD 440

THE HONOURABLE SRI JUSTICE J.SREENIVAS RAO
CIVIL REVISION PETITION No.2363 of 2023

ORDER:

This revision petition is filed, invoking the provisions of Article 227 of the Constitution of India, aggrieved by the orders dated 01.08.2023, passed by the Principal District Judge at Jangaon in I.A.No.190 of 2023 in O.S.No.123 of 2016.

2. The revision petitioner herein is plaintiff and respondent No.1 is defendant No.1 in the suit. For the sake of convenience, the parties herein are referred to as they are arrayed in the suit in O.S.No.123 of 2016 before the Court below.

3. **Brief facts of the case:**

3.1. Plaintiff filed suit in O.S.No.123 of 2016 seeking declaration declaring him as absolute owner and possessor and for perpetual injunction restraining defendant No.1 from interfering into peaceful possession and enjoyment of the suit schedule property and also sought decree directing defendant No.2 to issue pattadar pass book and title deed in favour of the plaintiff. In the said suit, the plaintiff filed application in I.A.No.190 of 2023 under Order VII Rule 14 of C.P.C. to receive certified copies of six documents. In the said application, the plaintiff stated that subsequent to filing of suit, the plaintiff complained before Lokayukta for non-implementation of the

orders passed by the Revenue Divisional Officer, Jangoan in File No.I/3508/2017, dated 22.07.2019, and basing upon the same, Lokayukta *vide* Letter No.807/2020/B1/Lok/8521/2020, dated 17.11.2020, directed the District Collector, Jangaon to submit report. Pursuant to the same, District Collector, Jangaon addressed a letter No.E1/1475/2020, dated 07.12.2020, to Revenue Divisional Officer and to Mandal Revenue Officer calling for detailed report about the complaint of the plaintiff. Pursuant to the same, Tahsildar addressed a letter No.Rc.I/2086/2020, dated 09.12.2020 and basing upon the same, Revenue Divisional Officer addressed a letter Rc.No.I/2086/2020 dated 19.01.2021. The plaintiff obtained the certified copies of the above said documents from the concerned authorities and the same are required to prove his claim in the suit. He further stated that after obtaining the said documents from the concerned authorities, he handed over the same to his earlier Counsel, but he has not filed the same and unless the documents were received, he will be put to great hardship, especially the suit is posted to 30.07.2023, for plaintiff's evidence only.

3.2. Defendant No.1 filed counter contending that the documents filed by the plaintiff are internal correspondence among the officials and said documents are pertaining to the years 2020, 2021 and 2022 and the same are not relevant for adjudication of the suit .He further contented that plaintiff has not pleaded the said documents in the

plaint and he filed the application at belated stage without giving any reasons.

3.3. The Court below dismissed the above said application in I.A.No.190 of 2023 by its order dated 01.08.2023 on the ground that the documents sought to be filed are subsequent to filing of the suit and the same are correspondence between the officials and the said documents cannot be produced without referring in the plaint and also plaintiff has not explained the delay in filing the application.

4. Heard Sri K. Devender, learned counsel for the petitioner/plaintiff and Sri R.K. Chitta, learned counsel for respondent No.1/defendant No.1. Learned counsel for the petitioner mentioned in the memorandum of grounds that respondent No.2/Defendant No.2 is not necessary party in the Civil Revision Petition.

5. Learned counsel for the plaintiff submits that the Court below without properly considering the contentions of the plaintiff erroneously dismissed the application on the ground that plaintiff has not referred the documents filed along with the application in the plaint. Admittedly, the said documents are subsequent to filing of the suit i.e., pertaining to 2020, 2021 and 2022 and question of mentioning the said documents in the plaint does not arise, as the suit was filed on 13.10.2016. He further contended that the documents filed along with application are public documents and

pertaining to the suit schedule property and soon after he obtained the certified copies from the competent authorities, filed the same along with application, specifically pleading that he handed over the same to his earlier counsel but the counsel has not filed the same immediately and due to mistake on the part of the earlier counsel, the party should not be suffered. He further contented that the plaintiff has satisfied all the ingredients of Order VII Rule 14 of C.P.C. In such circumstances, the Court below ought to have allowed the application, especially when the suit is posted for plaintiff's evidence only.

5.1. In support of his contention, he relied upon the judgment in **Nanjunda Setty @ N.S.Tallam vs. Tallam Subbaraya Setty and sons¹** and **L.T. Overseas North Americ INC vs. Sachdeva and Sons Pvt. Ltd.²**, wherein the Karnataka High Court and Delhi High Court held that application filed by the plaintiff under Order VII Rule 14 of C.P.C. to receive the documents is permissible and separate leave application is not required on the ground that documents which are filed along with application are subsequent to filing of suit.

5.2. He also relied upon the judgment of the Hon'ble Apex Court in **N.C.Bansal vs. Uttar Pradesh Financial Corporation and another³** contending that when the suit is at initial stage, application for production of documents can be received.

¹ 2004 (1) KCCR 539

² 2014 (4) AD (Del) 90

³ (2018) 2 SCC 347

6. *Per Contra*, learned counsel for Respondent No.1/Defendant No.1 vehemently contended that the application filed by the plaintiff to receive the documents is not maintainable under law, unless and until the plaintiff filed independent application seeking leave of the Court to file documents as required under Order VII sub-rule 3 of Rule 14 of C.P.C. He further contended that the documents filed by the plaintiff are internal correspondence between the two officials and those documents are no way relevant for adjudication of the suit.

6.1. He further contended that along with suit, plaintiff filed application in I.A.No.196 of 2016 for grant of temporary injunction and the said application was dismissed by the Court below on 03.07.2019. Aggrieved by the same, plaintiff filed C.M.A.No.800 of 2019 before this Court and the same was disposed of on 29.10.2022 directing the Court below to dispose of the main suit within a period of six months from the date of receipt of a copy of the order. The plaintiff filed the application only to protract the suit proceedings. He further contended that plaintiff has not given any reasons in the affidavit filed in support of the application, about relevancy and necessity of the documents for adjudication of the suit and also not given reasons for delay in filing application. The Court below rightly dismissed the application and there is no illegality or irregularity in the impugned order.

6.2. In support of his contention, he relied upon the judgments of this Court in:

1. **Golkonda Uma Devi v. Enti Manjula and another**⁴
2. **Choudari Rajesham vs. Choudari Lingalaiah (died) and another**⁵

7. Having considered the rival submissions made by the respective parties and after perusal of the material available on record, it reveals that plaintiff has filed comprehensive suit seeking declaration of title and perpetual injunction and also other reliefs in respect of the suit schedule property. Along with the said suit, he filed application seeking temporary injunction in I.A.No.196 of 2016 invoking the provision of Order XXXIX Rules 1 and 2 of C.P.C and the same was dismissed by the Court below, by its order dated 03.07.2019. Aggrieved by the same, plaintiff filed C.M.A.No.800 of 2019 before this Court. Initially this Court granted interim suspension on 22.08.2022 and thereafter defendant No.1 filed vacate stay petition. This Court disposed of above the said appeal on 29.10.2022 directing the Court below to dispose of the main suit in O.S.No.123 of 2016, within a period of six months from the date of receipt of a copy of the said order and till such time, the interim order dated 22.08.2022 granted in I.A.No.1 of 2019 in C.M.A No.800/2019 shall continue.

⁴ 2020 (2) ALT 215 (S.B.)

⁵ 2019 (5) ALT 226 (S.B.)

8. It further reveals from the record that when the above said suit was posted for plaintiff's evidence to 03.07.2023, plaintiff filed application in I.A.No.190 of 2023 under Order VII Rule 14 of C.P.C. to receive the certified copies of six documents. In the said application, plaintiff pleaded that the said documents are public documents pertaining to the suit schedule property and same are relevant to prove his claim in the suit and further pleaded that he obtained the certified copies of the said documents from the concerned authorities and handed over the same to his previous counsel, but the counsel could not file the same immediately. The Court below dismissed the application on the ground that plaintiff has not pleaded the documents filed along with application in the plaint and also not explained the reasons for delay in filing the application.

9. The records further reveals that plaintiff filed suit on 13.10.2016 and the documents filed along with application in IA.No.190 of 2023 pertaining to the years 2020, 2021 and 2022 i.e., subsequent to filing of the suit and question of mentioning the said documents in suit does not arise.

10. Insofar as other reason mentioned by the Court below in the impugned order that plaintiff has not stated the reasons for delay in filing the application is concerned, the plaintiff averred in the application that soon after receiving the certified copies from the concerned authorities, she had handed over the same to her previous

counsel and the said counsel has not filed the same before the Court below immediately, hence, she filed the same through present counsel, as the suit is posted for plaintiff's evidence. It is settled proposition of law that due to the mistake of counsel, the party should not be suffered, especially when the suit is posted for plaintiff's evidence.

11. Insofar as other contention raised by the learned counsel for defendant No.1, that without explaining the reasons for relevancy of the documents, plaintiff is not entitled the relief sought in the application is also not tenable under law, on the ground that the relevancy and authenticity of the documents can be decided by the Court in the suit in subsequent stages and not at the stage of granting permission to receive the documents.

12. Similarly, other contention raised by the learned counsel for defendant No.1 that plaintiff without seeking leave as required under Order VII sub-rule 3 of Rule 14 of C.P.C., is not entitled to file application straight away to receive the documents also not tenable under law, on the ground that the documents filed by the plaintiff are subsequent to institution of the suit, especially, in view of the principle laid down in **Nanjunda Setty** (1 *Supra*) and **L.T Overseas North America INC** (2 *Supra*).

13. In **Golkonda Uma Devi** (4 *Supra*) and **Choudari Rajesham** (5 *Supra*), this Court held that party to the suit should present his

evidence at the earliest point of time, before the suit is closed and in such circumstances, leave cannot be granted automatically unless valid reasons are furnished for not filing the said documents along with plaint. The principle laid down in the above said judgments are not applicable to the facts and circumstances of the case on the ground that the documents filed by the party are pertaining to prior to institution of suit and the party has not given reasons in the said application. In those circumstances, this Court held that in the absence of any explanation/reasons, the party is not entitled to seek relief to receive the documents. In case on hand, the documents filed by the plaintiff along with application are subsequent to institution of suit. Though the plaintiff has not specifically stated the reasons about relevancy of the documents, the plaintiff averred that the documents are pertaining to the suit schedule property and the same are relevant to prove his claim in the suit.

14. It is very much relevant to place on record that in **Mr. Anjaneyulu vs. R. Subramanyam Achary**⁶, the Hon'ble High Court of Andhra Pradesh at Hyderabad held that even though the reasons put forth by the party for the delay in filing the proposed documents is vague, it may certainly have a bearing on his defence in the suit. Moreover, those documents were sought to be produced before the commencement of the cross-examination of the respondent/plaintiff.

⁶ 2012(5) ALD23

Therefore, the respondent will certainly have an opportunity of explaining the nature of those documents if they are put to him in the cross examination. Hence, the lower Court ought to have permitted the petitioner therein to produce the documents in question.

15. It is also relevant to place on record that in **Sugandhi (Dead) by L.Rs and Ors. Vs. P. Rajkumar**⁷ the Hon'ble Apex Court observed that the Procedure is the hand maid of justice. Procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, courts must lean towards doing substantial justice rather than relying upon procedural and technical violation and further held that Court should not forget the fact that litigation is nothing but a journey towards truth which is the foundation of justice and the Court is required to take appropriate steps to thrash out the underlying truth in every dispute. Therefore, the Court should take a lenient view when an application is made for production of the documents under Sub-rule (3) of Rule 14 of Order VII of C.P.C.

16. It is also relevant to place on record that in **Levaku Pedda Reddamma and Ors. Vs. Gottumukkala Venkata Subbamma and Ors.**⁸ Hon'ble Apex Court held that the trial Court as well as High Court have gravely erred in law in not permitting the defendants to

⁷ (2020)10 SCC 706

⁸ Civil Appeal No. 4096 of 2022 (@SLP (C)No. 7452/2022

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 principle of law 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 documents itself. Consequently, the appeal is allowed and orders passed by the trial Court as well as High Court are set aside and the appellants/defendants are permitted to file the documents and to prove the same in accordance with law.

17. It is further relevant to place on record that in **Sirugudi Adinarayana v. Bodla Mariamma**⁹, High Court of Andhra Pradesh at Hyderabad held that as per Order VIII Rule 1 (3) and Order XIII Rule 2 of Civil Procedure Code 1908, discretion is conferred upon the Court to receive the document in evidence even at the hearing of the suit, with the leave granted by Court, to receive the documents and question of admissibility and relevancy of the documents can be decided by the Court not at the stage of granting leave, but at the stage of hearing.

18. It is already stated *supra* that basing on the documents filed along with application whether plaintiff can claim any rights over the scheduled property and whether the said documents are relevant for

⁹ 2004 (1) ALD 440

adjudication of the dispute between the parties, those aspects can be gone into at the subsequent stages and that stage has not yet reached, so far and by virtue of receiving the documents filed along with application no prejudice is going to be caused to the defendant No.1. It is also relevant to mention here that plaintiff has also not diligent in prosecuting the case and not filed application as soon as after receiving the documents. Hence, this Court of the view that the plaintiff has to pay costs to defendant no.1.

19. For the foregoing reasons as well as precedent decisions, this Court while exercising the supervisory jurisdiction conferred under Article 227 of Constitution of India, Civil Revision Petition is allowed and the impugned order, dated 01.08.2023, passed by the Court below in I.A.No.190 of 2023 in O.S.No.123 of 2016 is set aside. Accordingly, I.A. No.190 of 2023 stands allowed subject to condition of payment of Rs.5,000/- (Rupees five thousand only) towards costs to defendant No.1 within a period of two(2) weeks from the date of receipt of a copy of this order.

Miscellaneous application pending, if any, shall stand closed.

J.SREENIVAS RAO, J

Date: 28.03.2024

L.R. copy to be marked – Yes.

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