

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

**C.R.P.No.3450 OF 2023**

**Between:**

Bera Satyanarayana & others

... Petitioner Nos.1, 2 & 4/  
Defendants 1, 2 & 4

**And**

Gajula Vijayalaxmi & another

... Respondent/Plaintiff/  
Defendant No.3

**JUDGMENT PRONOUNCED ON: 18.03.2024**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

1. Whether Reporters of Local newspapers : **Yes**  
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : **Yes**  
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : **Yes**  
see the fair copy of the Judgment?

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**SUREPALLI NANDA, J**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA****C.R.P.No.3450 OF 2023****% 18.03.2024****Between:**

# Bera Satyanarayana &amp; others

... Petitioner Nos.1, 2 & 4/  
Defendants 1, 2 & 4**And**

\$ Gajula Vijayalaxmi &amp; another

... Respondent/Plaintiff/  
Defendant No.3

&lt; Gist:

&gt; Head Note:

**! Counsel for the Petitioners**

: Mr.V.Rohith,

**^ Counsel for Respondents**

: Mr.K.Ajay Kumar

? Cases Referred:

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**HON'BLE MRS JUSTICE SUREPALLI NANDA****C.R.P.NO.3450/2023****ORDER**

Heard Mr.V.Rohith, learned counsel appearing on behalf of the petitioners and Mr.K.Ajay Kumar, learned counsel appearing on behalf of respondents.

2. This Civil Revision Petition is filed challenging the Propriety and Legality of the Order dated 14.08.2023, in I.A.No.575 of 2022 in O.S.No.55 of 2013 on the file of Additional Senior Civil Judge at Mancherial, whereunder the petition under Section 151 C.P.C. filed by the defendants to reopen their evidence that was closed on 05.07.2022, was dismissed.

3. For the sake of convenience, the parties are referred to as they are arrayed in the suit before the trial court.

The defendants filed I.A.No.575 of 2022 under section 151 C.P.C. to reopen their evidence which was closed on 05.07.2022. The plea of the defendants is that the suit was posted for their evidence and the original documents were filed in E.P.No.44 of 2015 filed by the plaintiff. The E.P., was closed on 31.10.2016. The

defendants filed petition for return of the original documents filed in E.P.44/2015 and they are yet to receive the return of the documents. On 05-07-2022, the trial court closed the evidence of defendants as they were not ready to adduce evidence for want of documents. Hence, the petition.

4. The respondent/plaintiff filed counter seriously opposing the plea of the petitioners/defendants to reopen their evidence. The respondent/plaintiff alleged that they adduced their evidence and closed it on 28.01.2020 and that when the suit was posted for the evidence of the defendants, the defendants were not ready to adduce their evidence even though the trial court granted several adjournments and passed conditional orders and that was why the court closed their evidence. The respondent/plaintiff further alleged that when the E.P., was closed on 31.10.2016, the petitioners/defendants ought to have taken their original documents and filed them into the court or they should have taken steps to send for those documents from the executing court. They also alleged that the petition does not disclose the date on which the petition for return of the documents was filed and as to when the executing court ordered the return of the documents. The

respondent/plaintiff lastly alleged that the defendants filed the petition only to drag on the proceedings.

5. The trial court after hearing both sides and after considering the material on record passed the impugned order dismissing the petition to reopen the evidence of the defendants.

6. Feeling aggrieved by the order passed by the trial court, the defendants preferred the present revision petition.

7. Heard both sides. Perused the record.

8. The defendants filed their written statement on 24.07.2015. Order VIII Rule 1-A of Code of Civil Procedure says that all the documents which the defendants rely upon shall be filed along with the written statement. As per sub Rule (3) of Rule 1-A of order VIII C.P.C., a document which ought to be produced by the defendant but not so produced shall not be received in evidence without the leave of the court. The defendants in their written statement did not at all mention that their original documents were filed in the execution proceedings and so they could not file them along with the written statement. Further, the Execution Petition admittedly was closed on 31-10-2016. Immediately thereafter the defendants

ought to have taken the return of their original documents for the reason that they had filed their written statement on 24.07.2015 without filing the documents relied upon by them. This apart the evidence of the plaintiff was closed on 28-01-2020 and after that date it was the turn of the defendants to adduce their evidence. But the defendants did not obtain the return of the documents till 05-07-2022 on which date their evidence was closed. The trial court gave time of nearly two years for the defendants to adduce their evidence and yet they were not careful to obtain the return of the original documents from the Executing Court and file them in the trial court along with petition under order VII Rule 1-A (3). As rightly observed by the trial court, when the defendants file the petition to reopen their evidence, they ought to have filed the petition to receive their original documents and also the petition to recall DW-1 to show their bonafides to adduce their evidence for early completion of trial in the suit which is of the year 2013.

**9. For the foregoing reasons, this court does not find any illegality or irregularity in the order passed by the trial court.**

**10. In the result, this civil revision petition is dismissed. As a sequel thereto, all interlocutory applications shall stand closed. There shall be no order as to costs.**

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**SUREPALLI NANDA,J**

**Date: 18.03.2024.**

**Note:** L.R.Copy to be marked  
(B/o) *Yvkr*