

IN THE HIGH COURT OF ANDHRA PRADESH:: AMARAVATI

THE HON'BLE SRI JUSTICE B KRISHNA MOHAN

**WEDNESDAY, THE 06th DAY OF SEPTEMBER, TWO
THOUSAND AND TWENTY THREE**

**CIVIL REVISION PETITION Nos. 1107, 1105 and 1106 of
2023**

C.R.P. No.1107 of 2023:

Between:

K. Pullaiah, S/o. Pullaiah, aged about
58 years, K. Venkatapuram Village,
Veldurthy Mandal, Kurnool District
and another.

....Petitioners

And

K. Rangaiah, S/o. K. Pullaiah, aged
about 71 years, Retd. Employee, R/o.
Plot No. 2, New Gayatri Nagar,
Karmaghat, L.B.Nagar, Hyderabad and
5 others.

....Respondents

C.R.P. No.1105 of 2023:

Between:

K. Pullaiah, S/o. Pullaiah, aged about
58 years, K. Venkatapuram Village,
Veldurthy Mandal, Kurnool District
and another.

....Petitioners

And

K. Rangaiah, S/o. K. Pullaiah, aged
about 71 years, Retd. Employee, R/o.
Plot No. 2, New Gayatri Nagar,
Karmaghat, L.B.Nagar, Hyderabad and
5 others.

....Respondents

C.R.P. No.1106 of 2023:

Between:

K. Pullaiah, S/o. Pullaiah, aged about 58 years, K. Venkatapuram Village, Veldurthy Mandal, Kurnool District and another.

....Petitioners

And

K. Rangaiah, S/o. K. Pullaiah, aged about 71 years, Retd. Employee, R/o. Plot No. 2, New Gayatri Nagar, Karmaghat, L.B.Nagar, Hyderabad and 5 others.

....Respondents

COMMON ORDER:

Heard the learned counsel for the petitioners and the learned counsel appearing for the respondent Nos. 1 and 6.

2. This Revision is filed against the order passed by the Senior Civil Judges' court, Dhone in I.A.No. 100 of 2023 in O.S.No. 04 of 2022 dated 27.03.2023 dismissing the application for receiving the documents sought to be marked as 1 to 16 mentioned in the order dated 27.03.2023. The plaintiffs filed the above said I.A when the matter was posted for arguments after completion of the trial in the year 2019 itself by filing the above said application on 05.08.2021.

3. After considering the matter on merits, the trial court dismissed the above said I.A as under:

“The Petitioners filed u/Or. 7 R14 of CPC at the stage of arguments of the suit. But they failed to mentioned in their petition why not filed those documents in time, Even though those documents were in their hands at the time of filing of the suit itself. But the Petitioners/Plaintiffs not filing those documents at the time of filing of the suit or at the time of the chief examination of PW1. In the absence of specifi reasons for not filing at the time of filing of the suit or at the time of filing chief affidavit the said documents cannot be received and marked at the time fag end of the case, when the suit is posted for final arguments. These documents now, filed would be only to cover their latches in their case which would prejudice the interest of these Defendants/Respondents.

The petitioners/plaintiffs contended that some of the documents showed to DW1's cross examination he denied certain tax receipts so that they filed those documents they are now being filed, and another document that is one electricity receipt to DW1 which was in the name of one Yellaiah it was rightly denied by the DW1 the same was not marked by the court. Except those documents referred above no other documents were confronted to DW1 for the plaintiffs to say as DW1 denied the documents, they are

being filed now. It is very pertinent to mention here that they are being filed for first time in the court.

Accordingly, the Petitioners failed to mention the same for the delay of filing those documents even though they were in the possession, and failed to prove the relevancy of those documents without pleadings and issues.

Accordingly, this petition is dismissed.”

4. It is a suit for partition claiming grant of preliminary decree for 2/6th share of plaintiffs in the plaint A and B schedule properties by metes and bounds and also for awarding costs. The plaintiffs were examined and the defendants were examined. The cross examination was over, the trial was concluded and the matter was posted for arguments by the trial court. Originally, the suit was numbered as O.S.No. 242 of 2011 on the file of Additional Senior Civil Judge’s court, Dhone and it was renumbered as O.S.No. 04 of 2022. The documents sought to be marked now by reopening the suit are electricity consumption card with service No. 9897 in the name of the 1st petitioner, electricity consumption bills, house tax receipts, water tax bills and property tax bills etc. It is not the case of the petitioners that they are some old documents which were unearthed later and which are relevant for the purpose of determining the suit. It

is not case of the petitioners that they are not available or lost at some point of time and they were found subsequently which are necessary for the purpose of the suit. They did not choose to file those documents either along with the institution of the suit or at the time of the plaintiff's evidence. After cross examination of DW1, then in their wisdom, they felt these documents can be brought on record by reopening the suit.

5. It appears that by eliciting the information and by seeing the evidence of defendants or DW1, as an afterthought, these documents appeared to have been brought into service for the purpose of filing the same by seeking reopening of the suit when it is at the stage of arguments. It is a suit for partition claiming share of the plaintiffs' in the schedule properties. Already the relevant evidence was adduced during the course of trial to establish their respective case. Hence, these documents are not necessary for the purpose of suit and even if they are not brought on record, no prejudice would cause to the petitioners/plaintiffs in the suit.

6. But no doubt, reopening of the suit for the purpose of receiving additional documents can be entertained even when

the matter is at the stage of arguments on showing sufficient cause. There is no difficulty for the said proposition but the relevancy and the establishment of fact that why it could be filed earlier is to be demonstrated. In the absence of showing any relevancy and non production of the same at the earliest point of time as indicated above otherwise would cause much prejudice to the petitioner, the said application cannot be allowed.

7. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs. Accordingly, consequential reviews are dismissed.

As a sequel, Miscellaneous Petitions pending, if any, shall stand closed.

JUSTICE B KRISHNA MOHAN

06.09.2023
UPS