



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3311]

WEDNESDAY, THE SEVENTH DAY OF AUGUST
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE MS JUSTICE B S BHANUMATHI

CIVIL REVISION PETITION Nos. 1565, 1566 & 1567/2023

Between:

G.Abdul Shukur, and Others

...PETITIONER(S)

AND

S V Suresh Achari and Others

...RESPONDENT(S)

Counsel for the Petitioner(S):

Sri.V RAGHU

Counsel for the Respondent(S):

Sri.VARUN BYREDDY

The Court made the following:

COMMON ORDER:

All these three revisions, under Article 227 of the Constitution of India, are preferred by the petitioners challenging the common order, dated 12.05.2023, dismissing I.A.Nos.86, 87 & 88 of 2023 in O.S.No.103 of 2013 on the file of the Court of VI Additional District Judge, Kurnool.

a. **C.R.P.No.1567 of 2023** is filed against the order in I.A.No.86 of 2023, **C.R.P.No.1565 of 2023** is filed against the order passed in I.A.No.87 of 2023 and **C.R.P.No.1566 of 2023** is filed against the order in I.A.No.88 of 2023 in O.S.No.103 of 2013.

b. **I.A.No.86 of 2023** is filed under Section 151 CPC seeking to reopen the suit for marking of the petition schedule document. **I.A.No.88 of 2023** is filed under Order VIII Rule 1A and 3 CPC praying the Court to receive the certified copy of the order, dated 01.04.2002, in I.A.No.439 of 2001 in O.S.No.160 of 2001 on the file of the Court of Additional Senior Civil Judge, Kurnool; and **I.A.No.87 of 2023** is filed under Order XVIII Rule 17 read with Section 151 CPC to recall DW3 for marking of the said document.

2. Heard the learned counsel for the parties.

3. The pleadings as narrated in the impugned common order read as follows:

The 1st petitioner/11th defendant is the objector in the suit and he was the elected President of the Kurnool Pattana Swarnakara Sangham, *vide* registered No.254/81. The government of Andhra Pradesh granted an extent of Ac.0.49 cents of land to the said Sangham for construction of shopping complex for its members/goldsmiths. The 11th defendant availed bank loan and got constructed the shopping complex comprising of 197 shops and allotted the same to the members of the said Sangham who had contributed for purchase of the land. The respondents 1 and 2 have filed the suit for declaration of the alienations made by the defendants 2 to 5 in the name of defendants 2 to 9 as nullity and for such other reliefs. The petitioners herein and other objectors have got themselves impleaded in the suit and filed written statement. Now, the suit was posted for arguments on behalf of the petitioners. The plaintiffs/respondents 1 and 2 alleged that the petitioner influenced the office bearers and the executive body of 1st defendant society and hatched a plan to have wrongful gain from out of the property of the society and manipulated the resolution resolving transfer of the shopping complex to the 1st defendant. They further contended that the formation of 1st defendant society and fabrication of resolution of society was intended to have a wrongful gain and that the shop item numbers 1 to 5 and 16 of the

plaint schedule property are in illegal possession of the defendants 2 to 9. The disputes arose during the allotment of shops as the then Treasurer, Satyamchari, wanted shops for himself and his son in the same floor against the understanding of the members of the society. Later, they filed O.S.No.160 of 2001 against the petitioner herein and Secretary of the said Sangham with false allegations. They also filed I.A.No.439 of 2001 seeking temporary injunction and the same was dismissed on 01.04.2002 with an observation that even after expiry of their term by 01.11.1993, nobody objected to their continuation as President and Secretary till 2001 and that till elections are conducted, they are deemed to be the office bearers of the said Sangham and they cannot be restrained. Since no elections are conducted till today, they are deemed to be the office bearers of the said Sangham and the order, dated 01.04.2002, in I.A.No.439 of 2001 in O.S.No.160 of 2001 is an important document. At the time of preparing for arguments, the petitioner's counsel came to know about the said order. The delay in filing the above petitions is neither intentional nor deliberate. Hence, these petitions.

4. The respondents 3 to 11 reported no counter.

5. The respondents 1 and 2/plaintiffs filed counter denying most of the petition averments and contending that the petitioners have

not disclosed the relevancy of documents and there are no pleadings referring the documents that are being filed. The dispute in suit relates to the validity of the sale deeds and it is not stated by the petitioners that as to how the proposed documents are helpful to decide the issue. There is an abnormal delay in filing of the documents though the existence of the documents are within the knowledge of the petitioners. There is gross negligence on the part of the petitioners. Hence the petitions are liable to be dismissed.

6. During enquiry, no evidence was adduced by either of the parties.

7. After hearing both parties, the trial Court dismissed the applications observing that it can safely be concluded that the affidavits filed in support of the petitions do not indicate any justifiable reason for accepting the said document, reopening the suit and recalling DW3 at this stage.

8. Hence, these revision petitions.

9. The learned counsel for the revision petitioners submitted that the plaintiff pleaded in the plaint itself about the order in the interlocutory application and the same has been mentioned in the written statement, however, the trial Court failed to provide a

reasonable opportunity of filing the document and dismissed the same merely on the ground of delay in filing the same.

10. *Per contra*, the learned counsel for the respondents submitted that the trial Court rightly dismissed the petitions as the petitioners failed to state reasons as to why the document was not filed along with the plaint.

11. In the light of the well settled principles of law to provide an opportunity to the petitioners and to adjudicate the dispute on merits, more particularly, as the very same order is the foundation of the case and is referred in the pleadings and the said document is not in dispute, the trial Court ought to have allowed the petitions, but it failed to exercise its jurisdiction.

12. Accordingly, the Civil Revision Petitions are allowed setting aside the common order, dated 12.05.2023, passed in I.A.Nos.86, 87 and 88 of 2023 in O.S.No.103 of 2013. Consequently, the said applications are allowed.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

B.S.BHANUMATHI, J

07-08-2024
RAR