

HON'BLE SRI JUSTICE K. LAKSHMAN

**CIVIL REVISION PETITION Nos.268, 273 & 345 OF 2024, 3389,
3394 AND 3396 OF 2023**

COMMON ORDER:

Heard Mr. A. Dheeraj, learned counsel representing Mr. D.Jaipal Reddy, learned counsel for the petitioner. Despite service of notice, there is no representation on behalf of respondents.

2. The petitioner herein is the plaintiff in O.S. No.222 of 2022 (Old O.S. No.108 of 2012) pending on the file of Chairman, Land Reforms Appellate Tribunal - cum - I Additional District Judge at Hanumakonda, while respondents herein are the defendants. The petitioner herein - plaintiff had filed the said suit O.S. No.222 of 2022 seeking declaration declaring him as absolute owner of the suit schedule property and for eviction of the defendants.

3. When the aforesaid suit was posted for cross-examination of defendants' witness, the petitioner herein filed six (06) Interlocutory Applications vide I.A. Nos.1409, 1036, 1408, 1035, 1007 and 1034 of 2022, seeking to receive certified copies of sale deeds, implead Smt. S. Shobha Rani as defendant No.3, reopen the case for further examination of PW.1 and to recall PW.1 for further chief-examination

etc., the details of I.A. number, prayer sought therein, date of impugned order and the CRP number filed challenging against the impugned order etc. are as under:

Sl. No.	C.R.P. No.	Revision preferred against order passed in I.A.	Date of impugned order	Relief sought in IA
01.	268/24	IA 1409/22 in OS 222/2022	22.09.23	To receive C.C. of Sale deed No.1654/62, dt.13.11.1962
02.	273/24	IA 1036/22 in OS 222/22	22.09.23	To receive C.C. of sale deed No.177/75, dated 25.01.1975
03.	345/24	IA 1408/22 in OS 222/22	22.09.23	To implead Smt.S. Shobha Rani, wife of defendant No.2 as D-3
04.	3389/23	IA 1035/22 in OS 222/22	22.09.23	To re-open the case for further chief examination of PW.1 to mark documents
05.	3394/23	IA 1007/22 in OS 222/22	22.09.23	To receive C.C. of sale deed No.177/75, dt.25.01.1975
06.	3396/23	IA 1034/22 in OS 222/22	22.09.23	To recall PW.1 for further chief-examination.

4. As per the above, it is clear that the plaintiff had filed I.A. No.1409 of 2022, I.A. No.1036 of 2022 and I.A. No.1007 of 2022 seeking similar relief of receiving documents. It is apt to note that I. A. No.1036 of 2022 and I.A. No.1007 of 2022 were filed to receive the certified copy of the very same sale deed bearing document No.177 of 1975, dated 25.01.1975 for the reasons best known to the plaintiff. Instead of returning the second I.A. filed by the petitioner seeking same relief, learned trial Court entertained it.

5. Perusal of the record would show that the plaintiff had filed the above petitions in O.S.No.222 of 2022 seeking the aforesaid reliefs on the following grounds:

- i) Defendant No.1 claimed that her donor, namely Mr. K.V. Krishna Reddy is an absolute owner of 1050 square yards and out of the said extent, 900 square yards was sold to one Mr. Gopal Reddy and his wife Smt. Sharmila. In the remaining area of 150 square yards, 100 square yards was gifted to defendant No.1 and 50 square yards was left over for her own use;
- ii) In order to disprove the above allegation and claim, sale deed bearing document No.1654 of 1962, dated 13.11.1962 is essential as it shows that the Vendor of Mr. K.V. Krishna Reddy is having only 933 square yards of land;
- iii) If the said documents are received, no prejudice would be caused to the defendants;
- iv) In order to mark the aforesaid documents, it is also necessary to reopen the case for further examination of PW.1 in the aforesaid case;

- v) With regard to impleadment petition, according to defendant No.2 - DW.1, he has purchased property adjacent to the property of petitioner's vendor, namely Mr. Vankamamidi Bhaskar Rao, in the name of his wife. As per Ex.B1 - certified copy of registered sale deed bearing document No.1332 of 2000, in faovur of wife of defendant No.2, eastern boundary is shown as 'Plot of Vankamamidi Bhaskar Rao', which is plaint schedule property;
- vi) An extent of 166 square yards was purchased in the name of wife of defendant No.2 with certain measurements under the above sale deed. Taking advantage that the petitioner is residing at Hyderabad and as the western side of suit schedule property is in the name of wife of defendant No.2, defendant No.2 encroached about 15' on the western side of suit schedule property, and even after filing the suit, he raised constructions by extending their house towards suit schedule property;

- vii) Since existing western boundary of suit schedule property is in the name of wife of defendant No.2, she is just and necessary party to the aforesaid suit;
- viii) Advocate engaged by him died and he engaged another advocate, who advised him to file the aforesaid documents as they are necessary and essential to disprove the claim of defendant No.1, and also to implead the wife of defendant No.2 as defendant No.3 in the aforesaid suit.

6. Defendant No.1 filed her counter opposing the aforesaid applications by contending that she herself examined as DW.2, while defendant No.1 as DW.1 and they were examined at length. The suit itself was barred by limitation. In fact, the petitioner filed the aforesaid petitions with an intention to grab their property by creating ambiguity. The rough sketch sought to be received is created by the petitioner. The property shown in document No.177 of 1975 belongs to her donor and that she has been residing with her father more than five decades. The petitioner filed the petitions with an intention to fill up the lacunae in his evidence. The petitioner has to establish his prior possession and nature of his dispossession with proper

identification and location beyond reasonable doubt. Thus, the documents sought to receive as evidence do not establish the nature of possession and enjoyment of the petitioner over the claimed property.

7. Defendant No.2 also filed counter in I.A. No.1035 of 2022 filed to implead her wife as defendant No.3 opposing the relief by contending that her wife is not a necessary party to the aforesaid suit proceedings. In fact, the petitioner filed the said petition with an intention to protract the proceedings on one reason or the other. Further, he has filed all the documents which would show that the property stands in his wife name and that he used to maintain and managed the properties as husband. The petitioner having knowledge about ownership and possession of his wife since the date of filing written statement and documents did not choose to file a petition at the initial stage and only chosen to file the same at this stage, which shows the intention of petitioner in protracting the proceedings.

8. After hearing both sides, the trial Court dismissed all the aforesaid petitions on the following grounds:

- i) The suit filed by the petitioner is for declaration and recovery of possession, which has to be proved by him on his own title;
- ii) As per contents of paragraph No.7 of the written statement, it was mentioned that one Kunuduru Venkata Krishna Reddy was absolute owner and possessor of 1050 square yards in Sy.No.44 and out of which, he sold away 900 square yards in favour of one Mr. Gopal Reddy;
- iii) Nowhere in the written statement, it was mentioned that under which document the said K. Venkata Krishna Reddy, who is the donor of defendant No.1, purchased 1050 square yards, whether it is under one sale deed or two sale deeds whatever;
- iv) The proposed two documents i.e., certified copy of sale deed in favour of Mr. Aleti Ramgopal Reddy, an extent of 500 square yards and another sale deed in favour of Aleti Sharmila, an extent of 400 square yards, but in both the sale deeds, it was not mentioned how much total extent of property is there. However, defendant no.1 is

claiming the property through Mr. Kunduru Venkata Krishna Reddy;

- v) One sale deed was executed by Kavuri Radha Krishna executed in favour of wife of defendant No.2, while another sale deed was executed in favour of defendant No.2;
- vi) But, it was not mentioned how the donor Kunduru Venkata Krishna Reddy got the title of 1050 square yards;
- vii) The petitioner did not explain about non-filing of the aforesaid documents along with plaint. After elaborate cross-examination of the defendants, he filed the said documents with an intention to fill up the lacunae; and
- viii) Even there is no mention of proposed documents in the pleadings by the plaintiff;

9. As far as impleading petition is concerned, the trial dismissed the same on the following grounds:

- i. In the plaint, the plaintiff did not plead which side of his property was encroached;

- ii. In paragraph No.5 of the plaint, it was mentioned that defendant Nos.1 and 2 in collusion with each other grabbed the suit schedule property in the month of August, 2011;
- iii. Nowhere in the pleadings, it was mentioned that on the western side portion of his property was encroached either of the defendants or any other person;
- iv. Simply because the eastern side boundary owner is the wife of defendant No.2, she cannot be added as party as nowhere in the pleadings, it was mentioned that she encroached the property of plaintiff on eastern side boundary; and
- v. After thorough cross examination, the petitioner filed the said petition only to fill up the lacunae i.e., after lapse of eleven (11) years after filing the suit;

10. The trial Court also dismissed I.A. Nos.1034 and 1035 of 2022 observing that since I.A. Nos.1409 and 1408 of 2022 filed to receive the documents were dismissed.

11. Challenging the aforesaid orders, the petitioner filed these revisions.

12. Perusal of record would show that it is not known why the petitioner filed three petitions separately to receive the documents vide I.A. Nos.1409, 1036 and 1007 of 2022 instead of filing one petition. Further, out of the said petitions, I. A. No.1036 of 2022 and I.A. No.1007 of 2022 were filed to receive the certified copy of the very same sale deed bearing document No.177 of 1975, dated 25.01.1975. Thus, the petitioner filed the applications improperly.

13. Originally, the petitioner - plaintiff filed the aforesaid suit vide O.S. No.108 of 2012 for declaration and recovery of possession in respect of suit schedule property against defendant Nos.1 and 2. Pursuant to reorganization of Judicial Districts in the State of Telangana, the said suit was transferred to Hanumakonda District Court wherein the suit number was re-assigned as O.S. No.222 of 2022. In fact, the defendants filed their written statement in the year 2012 itself denying the claim of the plaintiff contending specifically that defendant No.1 is the absolute owner and possessor of her exclusive property i.e., Tin shed roof house along with open place admeasuring 100 square yards in Sy.No.44, situated at Nakkalagutta, Hanumakonda City and Mandal, Warangal District. It is further contended that one Kunuduru Venkata Krishna Reddy S/o Raghava

Reddy, the owner and possessor of 1050 square yards in Survey No.44 and out of which, he sold 900 square yards in favour of one Mr. Gopal Reddy, who got the registered document, raised construction and residing within the said purchased property. The remaining extent of 150 square yards, only 100 square yards was settled in favour of defendant No.1 long back through a Memorandum of Gift Settlement Deed in the year 1980 and the original of the said document was destroyed when her hut was burnt in flames at about 18 years back. Thereafter she and her father Sangia raised the construction by way of hut and she used to lead the life by tendering services in the nearby houses. Thereafter, when Kunduru Venkata Krishna Reddy started living at Hyderabad totally on the request of defendant No.1 again he executed a memorandum of Gift Settlement Deed dated 03.06.2011 for the sake of having document in her favour as she was servant in his house. The rest of 50 square yards of land was left for internal way for her convenience.

14. Defendant No.2 purchased the house from one Kavuri Radhakrishna S/o Thirupathaiah on 23.03.2000 under a registered sale deed bearing document No.1334 of 2000, who is having property to an extent of 520 square yards which was purchased from Sk. Habeeb

Afzal Hussain, pattadar having the land to an extent of 520 yards. Out of said extent, one Gujja Kishan Rao purchased 36.66 square yards through a registered sale deed bearing document No.1333 of 2000, dated 23.03.2000; one Mr. Gujja Vidyasagar Rao S/o Kishan Rao purchased 166 square yards through a registered sale deed bearing document No.1335 of 2000, dated 23.03.2000 and Smt. Shankesi Shobha Rani W/o Shyamsunder (defendant No.2) purchased 166 square yards through a registered sale deed bearing document No.1332 of 2000, dated 23.03.2000 and defendant No.2 purchased 40.22 square yards. Thus, the entire property of defendant No.2 is 166 + 40.22 square yards which is purchased from Kavuri Radhakrishna. All the purchasers left a common passage to an extent of 108.70 square yards which divides the house of purchasers and Thirumala Bar.

15. Thus, the defendants have filed written statement with the aforesaid specific pleadings in the year 2012. The plaintiff kept quiet all these years and filed the aforesaid Interlocutory Applications in 2022. The only explanation offered by the petitioner is that his earlier advocate died and the counsel engaged by him advised him to file the aforesaid applications. The said explanation is not satisfactory and

convincing. The evidence on behalf of the plaintiff was closed long back and even the defendants were also examined as DWs.1 and 2. The plaintiff had cross examined both DW.1 and DW.2 extensively. Thereafter, he has filed the said petitions, that too, without mentioning proper reasons to receive the documents, to reopen the evidence and to implead the wife of defendant No.2. The petitioner herein failed to give any explanation, much less plausible explanation with regard to the delay and the reasons except change of counsel which is not a proper ground. The petitioner herein having filed suit for declaration and recovery of possession has to prove his claim by producing cogent evidence. Though written statements were filed in the year 2012, the petitioner herein had filed the present IAs in the year 2022, that too, after cross-examining DWs.1 and 2 at length. Burden lies on the petitioner - plaintiff to prove his claim. He cannot depend on the weaknesses of the defendants. On consideration of the said aspects only, learned trial Court dismissed the said IAs. There is no error in it. The petitioner herein failed to make out any case to interfere with the said order.

16. In view of the aforesaid discussion, the orders passed by the trial Court are reasoned orders and the petitioner failed to make out any ground to interfere with the said order. Thus, all the revisions fail and the same are liable to be dismissed.

17. All these Civil Revision Petitions are accordingly dismissed. In the circumstances of the case, there shall be no order as to costs. However, originally the suit is of 2012 year, therefore, the trial Court is directed to dispose of the suit as expeditiously as possible.

As a sequel, miscellaneous petitions, if any, pending in the revisions shall stand closed.

7th March, 2024
Mgr

K. LAKSHMAN, J