

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No.5520 OF 2012

ORDER:

The civil revision petition is filed questioning the order dated 17.09.2012, passed by the I Additional Junior Civil Judge, Kakinada, East Godavari District in I.A.No.539 of 2012 in O.S.No.189 of 2008, wherein and whereby the application filed by the respondent-defendant under Order VIII Rule 1A (3) & Section 151 of C.P.C seeking to receive the documents by condoning the delay for marking on behalf of the defendant, was allowed.

The following documents which the respondent-defendant in the Court below sought to be brought on record:

1. Certified copy of the registered sale deed dated 29.5.1968 in favour of Anasuri Venkatarao
2. Certified copy of the delivery receipt in E.P.No.100 of 1995 in O.S.No.582 of 1984
3. House tax receipt issued by the Panuhayath Secretary, Cheediga dated 20.10.2011.

It is further stated that the respondent-defendant not being well versed with the Court proceedings and also not being advised by his counsel that the above said documents were not filed along with the written statement. Considering the submissions made by the learned counsel for the respondent-defendant, the Court below allowed the impugned I.A.

Learned counsel for the petitioner-plaintiff submits that the Court below ought not to have allowed the impugned I.A to bring on record the above said documents at the belated stage and the same is impermissible and the Court below is not vested with the un-bridled discretion to admit the documents at belated stage. He would also place reliance on the judgments of this Court reported

in **Ravi Satish v. Edala Durga Prasad and others**¹ and **Varuganti Narayana Rao v. Bodla Ramurthy and others**², to support his case.

Having considered the respective submissions, at the out set, it may be noted that when a suit was filed for injunction against the respondent – defendant, it is the petitioner plaintiff to prove her case on the merits of the matter. The reasons stated for delay in the filing the above said documents are ignorance of the respondent defendant as well as the counsel for the respondent. The respondent defendant has to plead the factum of as to how the he came into the possession of the property and going to file the above said documents to support his pleadings along with the written statement. However, considering the nature of the relief which is prayed for in the case, the Court below had exercised its discretion and allowed the impugned I.A accepting the reasons stated, which does not call for interference.

So far as the judgments cited by the learned counsel for the petitioner are concerned they are distinguishable as in the judgment in **Ravi Satish** (1 supra) after discussing the legal position in the facts of that particular case, the learned single Judge of this Court had found that no reasons whatsoever have been furnished by the petitioner therein. The learned Judge had observed in para No.11 of the judgment that “admittedly, in the case on hand, no reasons whatsoever have been furnished by the petitioner, let alone adequate cause been shown as to why the documents, which were the subject matter of the application, could not be filed earlier along with the written statement.”

¹ 2009(3) ALT 236

² 2011(6) ALD 142

In the other judgment reported in **Varuganti Narayana Rao** (2 supra), the learned single Judge had also found that there was no plea taken by the respondents therein that the documents were misplaced and they had made efforts to trace the same. Considering the said reason not being adequate, the relief was not granted therein. In those circumstances, the Court below had rightly allowed the impugned I.A and there are no reasons to interfere with the impugned order.

Accordingly, the civil revision petition is dismissed. No order as to costs. Consequently, the miscellaneous Applications, if any shall stand closed.

31st August 2017.
Gk

CHALLA KODANDA RAM, J



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Date:31.08.2017

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