

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

CIVIL REVISION PETITION NO.4776 of 2016

Between:

Kottakota Lakkappa and five (05) others

... Petitioners/Defendants

Versus

B.Lakkappagari Chikkaiah and six (06) others

...Respondents/Plaintiffs

* * * * *

DATE OF ORDER PRONOUNCED : 18.08.2023

SUBMITTED FOR APPROVAL:

HONOURABLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI

1. Whether Reporters of Local Newspapers
may be allowed to see the Order? Yes/No
2. Whether the copy of Order may be
marked to Law Reporters/Journals? Yes/No
3. Whether His Lordship wish to see the
fair copy of the Order? Yes/No

JUSTICE B.V.L.N.CHAKRAVARTHI

*** HONOURABLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI**

+ CIVIL REVISION PETITION NO.4776 OF 2016

% 18.08.2023

Between:

Kottakota Lakkappa and five (05) others

... Petitioners/Defendants

Versus

B.Lakkappagari Chikkaiah and six (06) others

...Respondents/Plaintiffs

**! Counsel for the Revision
petitioners**

: Sri N.Ranga Reddy

**^ Counsel for the Respondent
Nos.1 to 4**

: Sri Kothapalli Ram Mohan
Chowdary

**^ Counsel for the Respondent
Nos.5 & 6**

: . . .

< Gist:

> Head Note:

? Cases referred:

1. 2009 (3) ALT 236.

2. 2011 (6) ALT 299.

This Court made the following:

THE HONOURABLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI

CIVIL REVISION PETITION NO.4776 of 2016

O R D E R:

Heard Ms. G.Sree Deepthi, learned counsel representing on behalf of Sri N.Ranga Reddy, learned counsel for the revision-petitioners.

2. This revision-petition is directed against the impugned Order, dated 09.09.2016 in I.A.No.447 of 2016 in O.S.No.8 of 2011 by the defendants in the suit.

3. The application under the impugned Order was filed under Order VIII Rule 1-A of the Code of Civil Procedure, 1908 (for brevity 'CPC') to receive the documents mentioned in the list and it appears that the said application was filed by the revision-petitioners/defendants at the stage when the suit is coming for the evidence of defendants.

4. The reason assigned by the revision-petitioners in the affidavit is that, the documents mentioned in the list were not filed earlier along with the written statement as they were required for taking loans and other benefits from the Banks and

the Government and that as the suit is now coming for defendants evidence, they are seeking the leave of the Court under Order VIII Rule 1-A CPC to receive the documents.

5. The learned Trial Court, on considering the above submissions made for the revision-petitioners and relying on the Judgments of this Court in **Ravi Satish vs. Edala Durga Prasad**¹ and **Voruganti Narayana Rao vs. Bodla Rammurthy**² held that though the defendants in possession of the said documents on the date of filing of the written statement, they did not file the same without assigning any reasons in the written statement.

6. In the light of above contentions, the point that would arise for consideration in this Civil Revision Petition is as under:

“Whether the Senior Civil Judge’s Court, Hindupur committed any material irregularity in its Order, dated 09.09.2016 in I.A.No.447 of 2016 in O.S.No.8 of 2011?”

7. **P O I N T: -**

The learned counsel for the revision-petitioners would contend that the said documents were not filed along with the

¹ 2009 (3) ALT 236.

² 2011 (6) ALT 299.

written statement as they were in the bank. It is against the affidavit version filed before the Trial Court, whereunder it was stated that the documents are required for taking loans.

8. It is pertinent to note down that except document No.6/ Registered Sale Deed, dated 08.10.2008 mentioned in the list filed with the application, the other documents were neither referred in the written statement, nor mentioned in the list of documents filed along with the written statement. The revision-petitioners in their affidavit stated that these documents are referred in the cross-examination of P.W.1 when the suit is at the stage of plaintiffs side evidence. It is also pertinent to note down that the revision-petitioners did not choose to file those documents even at that stage.

9. Sub-Rule 3 of Rule 1A of Order VIII CPC mandates that documents ought to be produced in Court by the defendant under this rule, but, is not so produced shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

10. Sub-Rule 4 of Rule 1A of Order VIII CPC says that nothing in this rule shall apply to the documents produced for cross-

examination of plaintiff's witnesses; or handed over to a witness merely to refresh his memory.

11. The revision-petitioners though stated that they referred the documents during the cross-examination of P.W.1, did not produce the said documents at that time, but filed the documents when the suit is at the stage of defendants evidence and sought the leave of the Court. As already stated above, except the document No.6, no other document is referred in the written statement by the revision-petitioners. No reason was also assigned in the written statement for retaining the said documents with the defendants at that time.

12. The affidavit filed by the revision-petitioners before the Trial Court would show that documents were very much available with the defendants at the time of filing the written statement, but they did not file and now, they want to show that they retained them as they were required for taking loan from banks or getting benefits from the Government. But, no material is coming forthwith to support the same.

13. This Court in **Ravi Satish** and **Voruganti Narayana Rao** cases (supra) held that grant of leave is not for mere asking, nor

is the Court a mere Post-Office to receive documents even in the absence of any reasons being furnished for failure to file the said documents along with the written statement.

14. In those circumstances, there are no grounds to interfere with the Order of the Trial Court, as this Court did not find any material irregularity in the impugned Order of the learned Trial Court and the revision-petition is deserved to be dismissed.

15. Accordingly, the Civil Revision Petition is Dismissed at the stage of admission. There shall be no order as to costs.

16 As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUSTICE B.V.L.N.CHAKRAVARTHI

18th August, 2023.

DNB

Note:

LR Copy is to be marked.

**B/o.
DNB**