IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

MONDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

HON'BLE SRI JUSTICE NINALA JAYASURYA

CIVIL REVISION PETITION Nos: 2535 & 2538 of 2024

CIVIL REVISION PETITION NO: 2535 OF 2024

Petition under Article 227 of the Constitution of India, against the Order dated 30-08-2024 passed in I.A.No. 524/2024 in O.S.No. 267/2015, by the Court of VI Additional District Judge, Kakinada.

Between:

1. Mummidi Koteswararao, S/o. Pattabhiramayya, Aged about 58 years, Proprietor Aditya Supply Company, R/o. D.No. 65-6-19, Tyagaraju St., Mehar Nagar, Kakinada.
2. Mummidi Papa Ratnam, W/o. Koteswararao, Aged about 42 years, Housewife, R/o. D.No. 65-6-19, Tyagaraju St., Mehar Nagar, Kakinada.

...Petitioners/Petitioners/Defendants

AND

1. Kothani Veera Venkata Satya Apparao, S/o. Bangarayya, Age 48 years, Gorsa Village, U.Kothapalli Mandal,
2. Vurigity Veerendra Kumar, S/o. Surya Prasad, Aged about 38 years, Siddarda Nagar, Ramanayyapeta, Kakinada Rural Mandal.

...Respondents/Respondents/Plaintiffs

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in O.S.No. 267 of 2015 on the file of the Court of the VI Additional District Judge, Kakinada.

Counsel for the Petitioners: Sri. Sasanka Bhuvanagiri

Counsel for the Respondents: None Appeared

CIVIL REVISION PETITION NO: 2538 OF 2024

Petition under Article 227 of the Constitution of India, against the Order dated 30-08-2024 passed in I.A.No. 525/2024 in O.S.No. 267/2015, by the Court of VI Additional District Judge, Kakinada.

Between:

1. Mummidi Koteswararao, S/o. Pattabhiramayya, Aged about 58 years, Proprietor Aditya Supply Company, R/o. D.No. 65-6-19, TVagaraju St., Mehar Nagar, Kakinada.
2. Mummidi Papa Ratnam, W/o. Koteswararao, Aged about 42 years. Housewife, R/o. D.No. 65-6-19, Tyagaraju St. Mehar Nagar, Kakinada.

...Petitioners/Petitioners/Defendants

AND

1. Kothani Veera Venkata Satya Apparao, S/o. Bangarayya, Age 48 years, Gorsa Village, U.Kothapalli Mandal,
2. Vurigity Veerendra Kumar, S/o. Surya Prasad, Aged about 38 years, Siddarda Nagar, Ramanayyapeta, Kakinada Rural Mandal.

...Respondents/Respondents/Plaintiffs

IA NO: 2 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in O.S.No. 267 of 2015 on the file of the Court of the VI Additional District Judge, Kakinada.

Counsel for the Petitioners: Sri. Sasanka Bhuvanagiri

Counsel for the Respondents: None Appeared

The Court made the following: ORDER

APHC010453262024

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3209]**
(Special Original Jurisdiction)

MONDAY ,THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

CIVIL REVISION PETITION Nos: 2535 & 2538 of 2024

C.R.P.No.2535 of 2024

Between:

Mummidi Koteswararao & Another ...**PETITIONER(S)**

AND

Kothani Veera Venkata Satya Apparao & Another ...**RESPONDENT(S)**

Counsel for the Petitioner(S):

1.Mr.SASANKA BHUVANAGIRI

Counsel for the Respondent(S):

-None-

The Court made the following Common Order:

The present Revision Petitions are filed aggrieved by a Common Order dated 30.08.2024 in I.A.Nos.524 and 525 of 2024 in O.S.No.267 of 2015 on the file of the Court of VI Additional District Judge, Kakinada.

2. The petitioners are the defendants in the said suit. The respondents / plaintiffs filed the said suit for Specific Performance of Agreement of Sale of the plaint schedule property and for Possession and for alternative reliefs.

3. When the matter was posted for arguments on the defendants' side, the petitioners / defendants filed the above said applications ie., I.A.Nos.524 and 525 of 2024 to reopen the matter for recording the evidence on defendants' side and to issue summons to the expert and to give evidence as a Court witness, respectively. The respondents / plaintiffs filed counters and contested the matter. The learned Trial Court dismissed the above said I.As., by a Common Order against which the present Revision Petitions have been preferred.

4. The learned counsel for the petitioners made submissions, *inter alia,* to the effect that the order under challenge is erroneous and contrary to Law. He submits that the learned Trial Court went wrong in not reopening the defendants' side evidence and failed to appreciate that the cross examination of the expert in the light of the plea taken that Ex.A1 is forged and fabricated is essential. He submits that the learned Trial Court without appreciating the said aspect in the correct perspective, or by exercising its discretion, passed the order under challenge and the same is not sustainable. He also submits

that no prejudice would be caused to the respondents / plaintiffs, if the relief sought was granted and on the other hand, it would enable the Court to arrive at a right conclusion. Making the said submissions, the learned counsel urges for allowing the Revision Petitions.

5. This Court has considered the submissions made and perused the order under challenge. A reading of the order of the learned Trial Court would go to show that the petitioners / defendants were not diligent in pursuing the case. On the earlier occasion, it would appear that they filed an application I.A.No.37 of 2022 to recall P.W.1 and the same was allowed. After cross examination of P.W.1 and the matter is coming up for examination of P.Ws.2 and 3, they filed I.A.No.1092 of 2023 to recall P.W.1 and the same was dismissed. The petitioners carried the matter by way of Revision and this Court confirmed the Orders in I.A.Nos.1092 of 2023. On conclusion of the plaintiffs' side evidence, the matter was posted for defendants' side evidence on 08.07.2024 and the matter underwent several adjournments, at the instance of the defendants / petitioners. Thereafter, the evidence of defendants' side was closed and the matter was posted for arguments. While so, the petitioners filed a petition *vide* I.A.No.490 of 2024 to reopen the defendants' side evidence and the same was allowed. Subsequently, the 1st defendant was examined as D.W.1 and the matter was posted for arguments. After completion of the arguments on the plaintiffs' side and the matter is adjourned for arguments on the defendants' side, the above petitions have been filed. The sequence of events would certainly point out that the petitioners / defendants are not acting with due diligence and on the other

hand, it would appear that their intention is to protract the matter for one reason or the other. The order under challenge reflects that the learned Trial Judge had shown much indulgence and entertained the petitions / applications filed by the petitioners / defendants on the earlier occasions.

6. Though applications for reopening the evidence requires liberal consideration, in the given facts and circumstances of the case, the same cannot be ordered, if the applicants are not acting with due diligence. In the case on hand, the expert opinion was received in the year 2018 and more than six years after the receipt of the report, he is sought to be examined, that too after the arguments on the plaintiffs' side are concluded and the matter is posted for the defendants' side arguments. Under the guise of reopening of the evidence and examination of the expert, the petitioners / defendants as opined by the learned Trial Judge, cannot try to fill up the lacuna if any, in their case.

7. On an appreciation of the order under challenge, this Court see no perversity or illegality warranting interference in exercise of powers under Article 227 of the Constitution of India.

8. Accordingly, the Civil Revision Petitions are dismissed. No order as to costs. Consequently, miscellaneous applications, pending if any, shall stand closed.

Sd/- P. VINOD KUMAR
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The VI Additional District Judge, Kakinada, East Godavari District.
2. One CC to Sri. Sasanka Bhuvanagiri Advocate [OPUC]
3. **Three CD Copies**

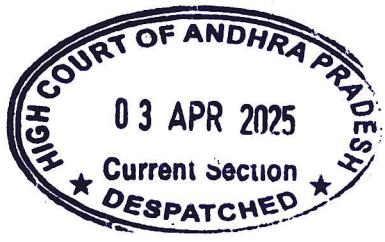
HIGH COURT

SAM

DATED:04/11/2024

ORDER

CRP.Nos.2535 & 2538 of 2024



DISMISSING THESE CIVIL REVISION PETITIONS