

Karnataka High Court B.S. Nazir Hassan Khan vs Aswathanarayana Rao And Ors. on 19 September, 2003 Equivalent citations: AIR 2004 Kant 92, 2004 (2) KarLJ 191 Author: M Saldanha Bench: M Saldanha ORDER M.F. Saldanha, J. 1. The present petition is directed against the order of the trial Court dated 9-6-2003 whereby I.A. XIII has been rejected. I.A.-XIII is effectively for appointment of a Commissioner and was filed on 2-11-2000. The reason why the I.A. has been rejected is on the ground that it is hopelessly belated and that it is filed at a stage of the proceedings when such an I.A. could not have been entertained by the Court in law. 2. The learned Judge has pointed out in the order passed that the suit is of the year 1991. The evidence of the plaintiff was commenced on 4-11-1996 and the evidence was closed on 22-2-1999. In the course of these three years, if the plaintiff and the learned Advocate desired that any Commissioner was necessary or desirable, it was at this point of time that the application ought to have been made and most certainly before the plaintiff's evidence was closed. If the application was justified, the court would have granted it or else it could have been rejected. Thereafter, the defendant's evidence was taken up and this was also closed on 19-9-2000 and the order-sheet shows that the case was posted to 10-10-2000 for arguments. The present application has been filed on 2-11-2000 i.e., three weeks after the trial has reached the stage of finality and the case was fixed for arguments. To my mind, it is necessary that all applications of this type even if they are bona fide and genuine, have to be filed at a proper point of time in the proceedings. This is very necessary also from the point of view of the stage of the proceedings because, the learned trial Judge is perfectly right when he pointed out that if this application were to be entertained, even assuming that was the position, it would mean that the trial which has reached the argument stage, would get dilated, evidence will have to be reopened and all the procedures from that stage onwards would again have to be recommenced. The law does not permit such ill-timed applications which would only have the effect of disrupting the trial and dilating the proceedings. The Courts have been virtually struggling to ensure that civil proceedings are heard and disposed of within a reasonable time and applications of this type only disrupt the proceedings and dilate them. Under these circumstances, not only was the trial Court fully justified but, to my mind, the challenge presented through the Civil Revision Petition to that order is totally misconceived. Having regard to this position, the Civil Revision Petition is dismissed with costs quantified at Rs. 1,000/-.