

Billa Jagan Mohan Reddy vs Billa Sanjeeva Reddy on 28 January, 1994

Equivalent citations: 1994 SCR (1) 429, 1994 SCC (4) 659, AIRONLINE 1994 SC 499

Author: K. Ramaswamy

Bench: K. Ramaswamy, B.L Hansaria

PETITIONER:
BILLA JAGAN MOHAN REDDY

Vs.

RESPONDENT:
BILLA SANJEEVA REDDY

DATE OF JUDGMENT 28/01/1994

BENCH:
RAMASWAMY, K.

BENCH:
RAMASWAMY, K.
HANSARIA B.L. (J)

CITATION:
1994 SCR (1) 429 1994 SCC (4) 659
JT 1994 (3) 339 1994 SCALE (2) 487

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. The office report and also the affidavit of dasti service would prove that Respondents 1, 3 and 4 have been served by usual mode and Respondents 3, 5, 6 and 7 refused to receive notice even by dasti. Under these circumstances, the service in the SLP is complete. When case was called, no one appeared for them, nor did they appear in person.

2. Leave granted. Heard learned counsel for the appellants.

3. The appellants are the first party in the reference proceedings under Section 30 of the Land Acquisition Act which relates to an extent of acre (sic) 33.09 gunthas of land in Chintagattu village, Warangal District, Andhra Pradesh, acquired due to submersion of Pochampadu Project. After determination of compensation, since the appellants claimed 1/4th share therein and was objected to by the 2nd party/respondents, the Collector made a reference under Section 30 and it is now pending decision therein. The title of the appellants to claim compensation is based on the entries in the record of rights, revenue records to show pre-existing title. They sought to prove it by filing copies of family holdings, Khasra Pahnin and Pahani Patrikas for the year 1954-55 and Certified Copy of Pahani from MRO, Hasanparthy of S. Nos. 22/A, 48, 55, 56, 57/C, 58/B, 58/C for the years 1959-60 to 1969-70 and other documents. The documents were sought to be produced by at application for condonation of delay in their production under Order 13 Rule 12 (sic) of CPC. These documents are public documents. The Subordinate Judge dismissed the same. On revision, the High Court dismissed the CRP No. 2805 of 1992 by order dated July 5, 1993. Thus this appeal by special leave.

4. Order 13, Rule 1 provides thus "1. Documentary evidence to be produced at or before the settlement of issues.- (1) The parties or their pleaders shall produce, at or before the settlement of issues, all the documentary evidence of every description in their possession or power, on which they intend to rely, and which has not already been filed in Court, and all documents which the Court has ordered to be produced.

(2) The Court shall receive the documents so produced Provided that they are accompanied by an accurate list thereof prepared in such form as the High Court directs."

It is clear from its bare reading that the parties or their counsel shall be required to produce all the documentary evidence in their possession or power which they intend to rely on to establish their right along with pleadings or before settlement of the issues. The court is enjoined under subrule (2) to receive such documents provided they are accompanied by an accurate list thereof prepared in the prescribed form. If they are not in the party's possession or custody, it shall be filed by the party along with an application to condone the delay in filing them. The explanation for delay is not as rigorous as one filed under Section 5 of the Limitation Act. These documents were not in the possession or custody of the appellants, but they have obtained certified copies from the Revenue Authorities and sought to be produced. It is undoubted that there is a delay in production of the said documents. But the trial court had stated that the application was filed at the stage of arguments, seeking to produce those documents and sought to rely upon the documents. It is settled law that, if the documents are found to be relevant to decide the real issue in the controversy, and when the court felt that interest of justice requires that the documents may be received, exercising the power under Order 4 1, Rule 27 CPC the appellate court would receive the documents and consider their effect thereof. When such is the position, when the documents are sought to be produced in the trial court, before the arguments are completed, normally they may be received; an opportunity given to prove them and rebuttal if any and their relevance and effect they may have, be considered in deciding the issues arising in the controversy. Under these circumstances, the trial court was not

justified in refusing to condone the delay and to receive the documents. The High Court also committed the same error in not considering the effect in this behalf in the right perspective. The orders are accordingly set aside and the delay in filing the documents is condoned. The trial court is directed to receive the documents, give an opportunity to the parties to prove the documents and if necessary, opportunity to the respondent to rebut the same and then dispose of the reference according to law.

5. The appeal is accordingly allowed. No costs.