

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition Nos.3843 and 3847 of 2015

Date: 24-11-2015

Between:

T. Venkata Sandeep Kumar Reddy

.. Petitioner

AND

R. Hanumantha Reddy and 10 others

.. Respondents

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition Nos.3843 and 3847 of 2015

ORDER:

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The revision petitioner is a claim petitioner who filed E.A.No.319 of 2009 in E.P.No.66 of 2007 in O.S.No.1653 of 2006 on the file of Principal Senior Civil Judge's Court, Ranga Reddy at L.B. Nagar.

O.S.No.1653 of 2006 was filed by the 1st respondent herein for specific performance of an agreement of sale dated 16-12-2004. When E.P.No.66 of 2007 was filed, the present petition was filed by the claim petitioner. Evidence was let in by both sides in the claim petition and the cross-examination of RW.1 was also completed at one point of time. RW.2 filed affidavit in lieu of chief-examination in January 2015 itself and an order was passed on 07-04-2015

imposing a condition that RW.1 as well as RW.2 should be cross-examined on the same day. Though RW.1 was cross-examined on 09-07-2015 and when RW.2 could not be cross-examined because of his absence, the case was posted to 15-07-2015. It was adjourned to

22-07-2015 when RW.2 was present. When the petitioner sought time, the cross-examination of RW.2 by the petitioner was closed and the case was posted for arguments. At that stage, the petitioner filed two applications for reopening of the evidence and for cross-examination of RW.2. These applications were dismissed by separate orders by the learned Principal Senior Civil Judge, Ranga Reddy on 11-08-2015 challenging which these two civil revision petitions are filed.

The impugned order was passed in the applications even without numbering them. When there was an objection with regard to numbering of the applications, they should have been returned, but the orders were passed without numbering and without giving an opportunity to the respondent to file his counter. The orders passed read as follows:

“3. Heard the counsel. Perused the record. As seen from the record RW.2 chief affidavit was filed on 28-01-2015. Thereafter, on 06-02-2015, 11-02-2015, 18-02-2015, 25-02-2015, 19-03-2015 and 27-03-2015, the RW.2 was present on every occasion. The counsel for the claim petitioner sought time. Even on 07-04-2015 conditional order was passed to cross-examination RW.2 by 13-04-2015 in spite of passing conditional order on 13-04-2015 RW.2 present. The counsel for the petitioner requested time as he wants to cross-examine RW.1 & RW.2. Hence, his request was considered. RW.1 recalled and cross-examined as per orders in E.A.No.92 of 2015 on 25-06-2015 in spite of cross-examination RW.1 the matter was posted to 15-07-2015, 22-07-2015 for cross-examination of RW.2, RW.2 was present on 22-07-2015, the petitioner again seeking time. Then RW.2 cross-examination was closed and posted for arguments.

4. At this stage again the present petitioner is filed reopen and recall RW.2 which clearly shows that only to drag on the proceedings the present petition is filed.

5. The present petitioner is filed E.A.319 of 2009 the said petitioner is filed U/O 21 R 29 on the suit filed by the claim petitioner the said suit was dismissed as withdrawn. Hence, E.A.319 of 2008 is not maintainable.

6 . As the claim petitioner leading evidence in E.A.320/99 as the suit is O.S.No.1653/2006 was decreed and E.P.66/2007 is pending. The claim

petitioner filed this petition only to delay the execution proceedings. Hence, petition is rejected.....”

I am not able to understand the observations made in paras-5 and 6 above. The present application is filed immediately after closure of the evidence and when the matter was posted for arguments without any delay. In those circumstances, the Court should not have shut out the right of the petitioner to cross-examine the witness, but should have imposed some costs.

In the circumstances, the order 11-08-2015 E.A.(SR).No.12944 of 2015 in E.A.No.319 of 2009 in E.P.No.66 of 2007 in O.S.No.1653 of 2006 passed by the learned Principal Senior Civil Judge’s Court, Ranga Reddy at L.B. Nagar are set aside and the petitioner is allowed to cross-examine RW.2 and complete the same on the same day itself and advance arguments on his side after one week. The 1st respondent also shall advance his arguments in reply one week thereafter and E.A.No.319 of 2009 shall be disposed of on or before 31-12-2015. Since the learned counsel for both sides are present before this Court and they are directed to cooperate for the disposal of E.A.No.319 of 2009 pending on the file of Principal Senior Civil Judge’s Court, Ranga Reddy at L.B. Nagar without seeking further adjournments. In the circumstances, the application filed by the petitioner for reopening the evidence and seeking permission to cross-examine RW.2 is allowed on payment of Rs.1000/- (Rupees one thousand only) payable to the learned counsel for the 1st respondent and the 1st respondent shall be present on a day fixed by the trial Court and the petitioner shall complete the cross-examination on that day.

The Civil Revision Petitions are allowed accordingly.

A. RAMALINGESWARA RAO, J

Date: 24-11-2015

Note: Dispatch the copy within 10 days.

B.O./Ksn