

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

CIVIL REVISION PETITION No.2191 of 2015

ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the Principal Junior Civil Judge, Anakapalle, Visakhapatnam District in I.A. No.142 of 2015 in O.S. No.55 of 2012 dated 10.04.2015.

The application in I.A.No.142 of 2015 was filed to permit the petitioner herein to adduce further evidence of P.W-2 as the chit agreement had to be proved by one of the witnesses but, due to oversight, the petitioner-plaintiff had informed the Court that there was no further evidence on their part. A counter-affidavit was filed by the respondent herein contending that it is only after written arguments were filed by them on 11.03.2015, did the petitioner come forward with this application on 18.03.2015.

By the order under revision the Court below held that it is only after perusing the defence in the written arguments did the petitioner-plaintiff file the petition to fill up the lacuna in his evidence; since the defendant had disclosed his entire case in his written arguments, allowing the petition would cause prejudice to the second defendant; exercise of the inherent powers, under Section 151 C.P.C. cannot result in prejudice being caused to any party; if the petitioner was negligent in prosecuting the suit, they must face the consequences; and, as the petitioner-plaintiff had themselves closed their evidence, the defendant had adduced evidence thereafter, and had filed written arguments, there were no bonafides in the petition which was filed to fill up the lacuna in the case of the petitioner-plaintiff.

While Sri P.Durga Prasad, Learned Counsel for the petitioner, would vehemently contend that an opportunity should be given to the petitioner to adduce evidence, as their failure to examine the witness, in support of the chit agreement, was only by oversight, Sri Y. Sudhakar, Learned Counsel for the respondent, would point out that, while the written

arguments were filed on 11.03.2015 highlighting this aspect, the present application was filed one week thereafter on 18.03.2015; and the said application is not bonafide.

The jurisdiction which this Court exercises, under Article 227 of the Constitution of India, is supervisory and not appellate. Save substantial injustice being caused, or the order suffering from a patent illegality, this Court would refrain from interference. Allowing the I.A. would cause substantial prejudice to the respondent, as the petitioner chose to file the present application only after noticing the submissions put forth by the defendant in their written arguments. I see no reason to exercise discretion and interfere with the order the Court below, as the said order does not suffer from a patent illegality necessitating interference under Article 227 of the Constitution of India. The Civil Revision Petition fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. No costs.

(RAMESH RANGANATHAN, J)

Date: 11.09.2015

MRKR