

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION No.4021 of 2015

ORDER:

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This civil revision petition under Article 227 of the Constitution arises out of the order dated 19.08.2015 passed by the learned Principal Junior Civil Judge, Tadepalligudem, in I.A.No.1255 of 2015 in R.C.C.No.8 of 2009 filed by the petitioner herein to re-open the matter for adducing further evidence.

The petitioner is the respondent in R.C.C.No.8 of 2009. As he failed to adduce evidence, the Court below closed the evidence on his side on 03.03.2015 and heard the arguments advanced on behalf of the respondent, petitioner in the R.C.C. At that stage, the petitioner-respondent filed a petition to re-open the matter to enable him to adduce evidence. This I.A. was allowed on 02.06.2015. Pursuant thereto, the petitioner-respondent examined R.Ws.1 and 2 and their cross-examination was also completed. The matter was posted for further evidence of the petitioner-respondent on 27.07.2015. On that day, an adjournment was sought to 03.08.2015. However, there was no representation for the petitioner-respondent on 03.08.2015 and the Court below accordingly closed the evidence on his side and posted the matter for arguments. The petitioner-respondent filed I.A.No.1255 of 2015 on 04.08.2015 praying that the Court below re-open the matter and permit him to adduce further evidence. By the order under revision, the trial Court dismissed the I.A. holding that the same was filed only to drag on the proceedings.

In the affidavit filed in support of the subject I.A., the petitioner-respondent stated that the chief affidavit of R.W.3, who was proposed to be examined on his behalf, was made ready and he was also brought to the Court but his advocate could not file the same as he went to the District Court at Eluru. He further stated that the matter had been entrusted to some other advocate but he also failed to file the chief affidavit of R.W.3 at the time of call work. Though the respondent-petitioner filed a counter stating that the affidavit filed in support of the I.A. did not disclose the name of the advocate to whom the matter was stated to have been entrusted and that the I.A. had been filed only to drag on the proceedings, the fact remains that the petition to re-open the R.C.C. for enabling the petitioner-respondent to adduce further evidence was filed one day after the closure of his evidence.

Given the afore-stated facts, this Court finds no basis for the conclusion arrived at by the Court below that the petitioner-respondent was trying to drag on the proceedings. Admittedly, the petitioner-respondent examined two witnesses after 02.06.2015 and the only lapse on his part was on 03.08.2015. This single lapse was not enough for the Court below to draw an adverse inference against the petitioner-respondent and shut out his further evidence. The Court below ought to have been more liberal in its approach in the subject I.A.

The order under revision is accordingly set aside and the matter is re-opened

to enable the petitioner-respondent to adduce further evidence upon payment of costs of Rs.1,000/- (Rupees One Thousand only) to the respondent-petitioner. Keeping in mind the fact that the matter was re-opened on 02.06.2015 to enable the petitioner-respondent to adduce evidence, the Court below shall endeavour to dispose of the matter which relates to the year 2009 as expeditiously as possible and preferably within six months from the date of receipt of a copy of this order.

The civil revision petition is accordingly allowed. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

7th October, 2015

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