

THE HON'BLE SRI JUSTICE K.C.BHANU
CIVIL REVISION PETITION No. 882 OF 2013

ORDER:

1. The Civil Revision Petition is preferred challenging the order dated 14.09.2012 in I.A. No.797 of 2012 in O.S. No.277 of 2009 on the file of the Principal Senior Civil Judge, Narasaraopeta, whereunder and whereby petition filed to recall P.Ws.2 and 4 for the purpose of cross-examination, was dismissed.

2. Learned counsel for the petitioner contended that as the petitioner could not give instructions to her advocate, P.Ws.2 and 4 were not cross-examined and by inadvertent mistake, no petition was filed to recall P.W.3, and thereafter a petition was filed to recall P.W.3, which was also dismissed by the trial court, and hence, he prays to allow the revision.

3. On the other hand, learned counsel for the respondent contended that inspite of giving several opportunities for cross-examination, the petitioner did not avail the same and for one reason or the other, the petitioner has been dragging on the matter and therefore the trial court rightly dismissed the petition.

4. Petitioner is defendant no.2 in the suit. The suit is for specific performance of agreement of sale. Admittedly, P.Ws.2 and 4 were not cross-examined by the counsel for the petitioner/defendant no.2. The learned Judge dismissed the petition on the ground that the petitioner wantonly not filed a petition to recall P.W.3 so as to drag on the proceedings. The affidavit filed in support of the petition would go to show that the petitioner could not meet her advocate and give instructions to cross-examine P.Ws.2 and 4 and therefore the present petition to recall

P.Ws. 2 and 4. The reason, according to the petitioner, is that she did not give instructions to cross-examine them. Right to cross-examine a witness is an indispensable right of the party. That right cannot be curtailed. Since the petitioner could not meet her advocate and give instructions due to high fever, there was no cross-examination of P.Ws.2 and 4. Hence, they can be recalled for the purpose of cross-examination. In view of the fact that the respondent apprehends that the petitioner wants only to drag on the matter on one reason or the other, care must be taken to avoid the same. Therefore, the trial Court is directed to recall P.Ws.2 and 4 for cross-examination by the counsel for petitioner/defendant no.2 and fix a date for cross-examination. On the date so fixed by the trial court, the counsel for the petitioner/defendant no.2 shall cross-examine them. If he fails to do so, the right of cross-examination shall be forfeited and the recall petition shall stand dismissed.

5. With the above observation, the Civil Revision Petition is allowed. No costs. Miscellaneous Petitions pending, if any, in the Civil Revision Petition shall stand closed.

(K.C.Bhanu, J.)

27.02.2015
DRK

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