

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.3740 of 2014

ORDER :

This Revision is filed under Article 227 of the Constitution of India challenging the order dt.05.09.2014 in I.A.No.1190 of 2014 in O.S.No.114 of 2004 on the file of the Senior Civil Judge, Vizianagaram.

- 2.** The petitioner herein is the defendant in the suit.
- 3.** The 1st respondent filed the said suit against petitioner and respondent nos.3 and 4 for declaration of her title, for recovery of possession and other reliefs.
- 4.** During the course of trial, the 2nd respondent/2nd plaintiff was examined as PW.1. He was cross-examined on 06.08.2014 and 08.08.2014.
- 5.** On 11.08.2014, the petitioner herein filed I.A.No.1190 of 2014 to re-call PW.1 for further cross-examination on the ground that some material questions were not put to PW.1 while in the witness box by the counsel for petitioner.
- 6.** This application was opposed by 2nd petitioner stating that there was lengthy cross-examination of PW.1, and only to drag on the suit they want PW.1 to be re-called again.

7. By order dt.05.09.2014, the Court below dismissed the said application, observing that on 08.08.2014 after PW.1 was cross-examined, the counsel for petitioner had reported that it is complete. It also observed that an Advocate who accepts a brief from his client is supposed to prepare in totality the brief entrusted to him, and if he failed to do so, PW.1 cannot be recalled for further cross-examination.

8. Challenging the same, the present Revision is filed.

9. Heard Sri P.R. Prasad, counsel for petitioner; and Sri P.L. Rao, counsel for 2nd respondent. The other respondents are not necessary parties in the Revision.

10. The counsel for petitioner contended that within three days of the closure of cross-examination of PW.1, the said application was filed by petitioner to re-call him for further cross-examination, and the view of the Court below that the application cannot be considered is perverse and untenable.

11. Although the counsel for 2nd respondent sought to support the order passed by the Court below, I am of the opinion that since the counsel for petitioner/defendant had filed the I.A. within three days of the closure of cross-examination of PW.1, no serious prejudice is caused to 2nd respondent if the application is allowed and PW.1 is

re-called for further cross-examination.

12. Therefore, the Civil Revision Petition is allowed and the order dt.05.09.2014 in I.A.No.1190 of 2014 in O.S.No.114 of 2004 on the file of the Senior Civil Judge, Vizianagaram is set aside; and the said I.A. is allowed. No order as to costs.

13. As a sequel, miscellaneous petitions pending, if any, in this Revision shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 14.10.2015

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