

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

C.R.P.No.4717 OF 2014

ORDER :

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.28.1.2014 in IA.No.981 of 2014 in O.S.No.119 of 2004 of the II Additional Senior Civil Judge, Warangal.

2. The petitioner herein is the defendant in the above suit. The said suit was filed by the respondent seeking declaration of title and for injunction. The petitioner herein took a plea that PW2, with connivance of his father and plaintiff/PW1, got the suit filed against him only to harass him and that PW2 is the GPA holder of the plaintiff/PW1 and he is behind the litigation.

3. Trial commenced and evidence on both sides was concluded. The brother of the plaintiff was examined as a Court Witness (CW.1).

4. At that stage, the petitioner herein filed I.A.No.981 of 2014 alleging that the evidence of CW1 disclosed some more facts warranting further cross-examination of PW2 and therefore in exercise of power conferred on Court under Section 151 CPC, the Court should reopen the evidence for the purpose of recalling PW2 for further cross-examination.

5. The said application was opposed by the respondent alleging that no new material was introduced in the evidence of CW1 and only to procrastinate the suit, this application is filed.

6. By order dt.28.1.2014, the Court below dismissed the said application.

7. It held that after CW1's evidence is recorded, if the petitioner is permitted to cross-examine PW2, it would amount to permitting the petitioner to fill up the gaps, and since the matter is an old matter of the year 2004 and several opportunities had already been given, it is not a fit a case to permit recall of PW2 by reopening the evidence.

8. Challenging the same this Revision is filed.

9. Heard the counsel for the petitioner and Sri P.Prabhakar Reddy, Counsel for the respondent.

10. Although counsel for the petitioner sought to persuade the Court that the order passed by the Court below is erroneous, I am of the opinion that the reasoning given by the Court below in refusing to reopen the evidence for the purpose of recalling PW2 for further cross-examination appears to be correct and the discretion was correctly exercised by the Court below. The order of Court below does not warrant any interference by this Court in exercise of its

jurisdiction under Article 227 of the Constitution of India.

11. So, I do not find any merits in this Civil Revision Petition and is accordingly dismissed. There shall be no order as to costs.

12. Consequently, Miscellaneous Petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

14th August, 2015.
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