

HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION Nos.4194 & 4685 of 2014

COMMON ORDER :

As both these revisions arise out of interlocutory orders in the same suit, they are heard together and are disposed of by this common order.

2. These revisions are directed against the common order dated 07.10.2014, passed by the learned XVI Additional District and Sessions Judge, Nandigama, in I.A.Nos.538 and 539 of 2014 in O.S.No.50 of 2013. The respondent herein is the plaintiff in the suit, which was originally filed in the year 2007 and on transfer, re-numbered as O.S.No.50 of 2013. Said suit is filed for declaration of title and recovery of possession of suit schedule properties. On behalf of respondent/plaintiff, PWs.1 and 2 were examined and inspite of giving several opportunities, petitioner has not taken steps to cross-examine PW-2, as such, the evidence of PW-2 was closed and the case was posted for evidence on behalf of defendant. At that stage, the petitions in I.A.Nos.538 and 539 of 2014 are filed to reopen the suit and to recall PW-2 for the purpose of cross-examination. The said applications are dismissed by impugned common order dated 07.10.2014.

3. Heard learned counsel for the parties.

4. From a perusal of the proceedings, it is clear that inspite of giving several opportunities to cross-examine PW-2, the petitioner has not availed the same. Though there is no third witness on behalf of plaintiff, the I.As. are filed not only to recall PW-2 but also PW-3. In view of the negligence in drafting the affidavit and further on the ground that inspite of the fact that the matter was adjourned on payment of costs petitioner has not taken steps to cross-examine PW-2, the Court below has dismissed the applications. As much as the suit is for declaration of title and recovery of possession, and further, as it is stated that after rejection of present applications, the defendant's evidence is not yet started, this Court deems it appropriate to give an opportunity to the petitioner herein as a last chance to cross-examine PW-2, subject to payment of costs.

5. Accordingly, both these revision petitions are allowed on condition of petitioner's paying costs of Rs.5,000/- (Rupees Five thousand) payable by way of demand draft to the respondent/plaintiff within a period of three weeks from today. The petitioner shall cross-examine PW-2 on the next date of hearing without asking for any further adjournments. If PW-2 is not cross-examined on the next date of hearing, it is open to the Court below to proceed with recording of defendant's evidence. As the suit is initially filed in the year 2007, the

learned XVI Additional District and Sessions Judge,
Nandigama is directed to dispose of the suit within a
period of four months from today.

6. Both the revisions are allowed with the directions as
indicated above. No costs. Pending miscellaneous
applications, if any, shall stand closed.

R. SUBHASH REDDY, J

20th March 2015

N.B:

Issue C.C. by 24.03.2015.

(b/o)

ajr