

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.4684 of 2014

ORDER :

This Revision is filed under Article 227 of the Constitution of India, challenging the order dt.11.09.2014 in I.A.No.688 of 2014 in OS.No.14 of 2009 on the file of Principal Junior Civil Judge, Kadapa at Rayachoty.

2. The petitioner herein is 6th defendant in the above suit.

3. After pleadings were filed, trial commenced and 1st respondent/plaintiff herein gave evidence as PW.1 in chief examination.

4. The matter was posted to 16.04.2010 for his cross-examination, but he was not cross-examined by petitioner and as well as other defendants on that day. The court below forfeited their right to cross-examine PW.1, closed evidence of plaintiff and posted the matter for defendants' evidence. Thereafter, IA.Nos.781 and 782 of 2010 were filed by petitioner and other defendants seeking permission to cross-examine PW.1. Those applications were allowed and they were allowed to cross-examine PW.1. The matter was again posted for cross-examination of PW.1 to 03.06.2011, but the petitioner and other defendants did not cross-examine PW.1. There was no representation on their behalf on that day, so the court

forfeited their right to cross-examine PW.1.

5. Subsequently, defendants including petitioner, filed IA.No.849 of 2011 for re-call of plaintiff and IA.No.849 of 2010 to re-open the evidence of PW.1 stating that on 01.07.2011 when the matter was posted for cross-examination of PW.1, the husband of petitioner herein by name Madan Babu, was suffering from fever and so PW.1 could not be cross-examined. Those applications were dismissed by the Court and the same was confirmed in CRP.Nos.3126 and 3130 of 2012 by this Court.

6. Thereafter, the present application IA.No.688 of 2014 has been filed again to recall PW.1 for the purpose of cross-examination by defendants.

7. This application was opposed on the ground that earlier opportunities were not availed of and there were no bonafides in filing the application.

8. The court below dismissed the IA.No.688 of 2014 and held that these applications are filed only to drag on the proceedings.

9. Challenging the same, this Revision is filed.

10. It is the contention of counsel for petitioner that, no doubt, there were certain laches on his client's part in not cross-examining PW.1, but since no injustice would be caused to plaintiffs, on payment of costs at least, the court below should have granted permission to cross-examine PW.1. Alternatively, he contended that at least after the

evidence of defendants is closed, they should be given an opportunity to cross-examine PW.1.

11. I am unable to agree with both the submissions.

12. The petitioner and other defendants had been given an opportunity to cross-examine PW.1 on 22.06.2010, but they did not do so. Although the court below, at that time, closed the evidence on the side of plaintiffs when the petitioners filed IA.Nos.781 and 782 of 2010, it allowed these applications on payment of costs of Rs.300/- each. Again when on 03.06.2011 the matter was posted for cross-examination of PW.1, the petitioner and other defendants did not cross-examine PW.1. The subsequent applications filed by petitioner and other defendants were dismissed by the trial court and the same was confirmed in Revision by this Court. It is thus clear that repeatedly these applications were being moved with a view to stall proceedings in the suit. The petitioner, who has not availed of opportunities to cross-examine PW.1, cannot be shown any indulgence.

13. I, therefore, do not find any error of jurisdiction in the order of the court below warranting interference by this Court under Article 227 of the Constitution of India. Therefore, the Civil Revision Petition fails and is accordingly dismissed. No order as to costs.

14. Miscellaneous applications, pending if any in this Revision, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 04-02-2015

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