

THE HON'BLE SRI JUSTICE K.C. BHANU
CIVIL REVISION PETITION Nos.3934, 3935 OF 2014,
AND 508, 536 AND 562 OF 2015

COMMON ORDER:

All these Civil Revision Petitions, under Article 227 of the Constitution of India, are directed against the Orders, dated 07.10.2014, in Interlocutory Application Nos.1088, 1091, 1090, 1089, 1092 of 2014 in Original Suit Nos.343, 347, 343, 343 and 347 of 2013 respectively passed by the Principal Senior Civil Judge, Narasaraopet, whereunder and whereby, the petitions filed to reopen the suits, to receive additional evidence affidavits of PWs.1, 3 and chief evidence affidavit of PW.4, to recall the witnesses, and to receive further chief evidence affidavit of PWs.1 to 3 are dismissed holding that the petitions were filed at the belated stage to fill up the *lacunae* in the case.

2. Learned counsel for the revision petitioner contended that filing of additional evidence affidavits of PWs.1 to 3 and chief evidence affidavit of PW.4 is for proper adjudication of the suits; that while filing the chief evidence affidavits of the plaintiff and his witnesses, the Advocate's clerk committed mistake in noting down the suit numbers in the bundle and therefore, a mistake was carried out in the chief evidence affidavits; that the same was noticed at the stage of arguments and hence, he prays to allow the petitions.

3. On the other hand, learned counsel for the respondent contended that the present petitions are filed at the belated stage, when the suits are coming up arguments and the trial Court rightly

rejected the petitions, therefore those orders need no interference by this Court.

4. Reopening of the suits depends upon the purpose for which witnesses are to be recalled. The ground for which witnesses, who were already examined on behalf of the plaintiff, are to be recalled was that some mistake was crept-in while noting down the numbers of the suits, which was inadvertently committed by the Advocate's clerk and the Advocate prepared the chief evidence affidavits carrying out the said mistake and it is a *bona fide* mistake.

5. Reopening of the suit is inherent power of the Court as provided under Section 151 of the Code of Civil Procedure, 1908 (for short, 'CPC') and recalling of a witness under Order XVIII Rule 17 CPC is not a routine. It is the discretion of the Court to recall the witnesses for the purpose of arriving at a just decision of the case. However, that discretion has to be exercised judiciously. As seen from the affidavits filed in support of the applications for reopening the suits and recalling of witnesses, they show that mistake has been committed in noting down the suit numbers. For that purpose, filing of further chief evidence affidavits of the witnesses, who were already examined, is not permissible under law because the scheme of the Indian Evidence Act, 1872 contemplates three modes of examination viz., i) Chief Examination, ii) Cross-examination, and iii) Re-examination with the permission of the Court. The Evidence Act does not prescribe filing of additional chief evidence affidavits to be received as evidence. Therefore, when the Indian Evidence Act prohibits

receiving of additional chief evidence affidavits, question of reopening the suits may not arise. The trial Court, though on different ground, rejected the case of the petitioner, but for the aforementioned grounds, the petitions filed by the petitioner are liable to be dismissed. Therefore, there are no grounds to interfere with the impugned orders.

6. Accordingly, all the Civil Revision Petitions are dismissed. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in these revisions shall stand closed.

JUSTICE K.C. BHANU

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Date:20.02.2014
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