

**THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

**CIVIL REVISION PETITION No.4771 of 2015**

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**ORDER:**

The plaintiffs in O.S. No.16 of 2005 on the file of the Court of the learned Senior Civil Judge, Gadwal, are the petitioners herein. The suit was filed for declaration that the sale deeds executed in favour of defendants 1 and 2 are nominal and not binding on the plaintiffs. The evidence was completed on behalf of the plaintiffs and defendants. In view of certain contradictory statements made by defendant No.3 in his evidence as DW3, I.A.53 of 2014 was filed by the plaintiffs for recalling DW1 to cross-examine him on certain points made by defendant No.3. The said application was dismissed by the learned Senior Civil Judge, Gadwal, by order dated 19.06.2015, challenging which the present Civil Revision Petition was filed.

The plaintiffs filed the said application stating that they were surprised when the defendant No.3, during the course of cross-examination as DW3, admitted that he is deposing with the consent of defendants 1 and 2; whereas DW1, in his examination-in-chief stated that defendant No.3 has nothing to do with their transaction and the alleged involvement of defendant No.3 was imaginary. In order to clarify the contradictory statements made by DWs 1 and 3, the plaintiffs sought for recalling of DW1.

A counter affidavit was filed stating that the suit is posted for arguments and at that stage the present application was filed. It was also stated that the present application is similar to the application filed in I.A.No.453/2013, which was dismissed by the Court on 17.07.2013, and it amounts to *res judicata*.

In the impugned order, the lower Court stated that the subject matter of the property in the present suit as well as in O.S.No.41/2005 is common and by virtue of the order passed by this Court in C.R.P.No.4978/2007 dated 06.09.2008, both these suits are clubbed together as per the docket order in

O.S. No.41/2005 dated 15.10.2008, and common evidence was recorded in O.S.No.16/2005. DW3 in his examination in chief stated that the defendants 1 and 2 were introduced to third plaintiff for the purpose of negotiating the sale of his lands to meet his financial requirements and also admitted that the defendants 1 and 2 are his close relatives. The lower Court also observed that mere assertion of DW1 in his evidence that the defendant No.3 was no way concerned with the transactions between the plaintiffs and defendants 1 and 2, and defendants 1 and 2 does not preclude the defendant No.3 as DW3 from filing exhibits B22 to B35 and DW1 need not be recalled.

It is not as if the plainitffs are prevented from advancing their arguments on the basis of evidence adduced by DWs 1 and 3. In those circumstances, the order in I.A. No.53/2014 was passed by the trial Court dismissing the same. For the aforesaid reasons, I do not find any reason to interfere with the impugned order passed by the Court below.

Accordingly, this Civil Revision Petition is dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

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**A.RAMALINGESWARA RAO, J**

02.12.2015

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