

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
CIVIL REVISION PETITION No.4302 of 2015

Date:14.10.2015

Between:

Katragadda Beena,
W/o Satya Sai

.... Petitioner

And:

Katragadda Sai Krishna,
S/o Kumar Swamy

.....Respondent

Counsel for the Petitioner: Mr. Raavinutha VSR

Counsel for the Respondent: None appeared

The Court made the following:

ORDER:

This Civil Revision Petition arises out of order, dated 13.7.2015, in I.A.No.144 of 2015 in O.S.No.170 of 2010 on the file of the learned Principal Junior Civil Judge, Repalle.

The respondent has filed the above-mentioned suit for declaration of his title in respect of the suit schedule property based on a purported Will executed by one Katragadda Raja Ratnamba on 16.8.2000. After the evidence on the plaintiff's side was closed, the petitioner, who is defendant No.2, has filed the above-mentioned I.A. for recalling P.Ws.3, 4 and 6 for further cross-examination regarding the Will, its execution and their presence. This application having been dismissed by the lower Court, the present Civil Revision Petition is

filed.

In support of her application filed for recalling P.Ws.3, 4 and 6, the petitioner averred that P.Ws.3, 4 and 6, who are vital witnesses, were cross-examined on her behalf and that as, the said witnesses were not confronted with certain vital aspects, their further cross-examination is necessary. This reason, however, has not impressed the lower Court, as a result of which, it has dismissed the said application.

The Supreme Court in ***Vadiraj Naggappa Vernekar Vs. Sharadchandra Prabhakar Gogate***^[1] has held that Order-XVIII Rule-17 of the Code of Civil Procedure is not intended to be used by the parties to fill up the omissions in the evidence of witnesses already examined and that such power has to be exercised sparingly in appropriate cases. This Court in ***A.R.K.Raju Vs. A.V.S.Raju***^[2] referred to and relied upon the said judgment of the Supreme Court and held that the power of recall is vested in the Court primarily for seeking clarification on any of the aspects arising in suit and such power shall not be exercised as a general rule merely on the ground that recall and re-examination of the witnesses would cause no prejudice to the parties.

As noted above, the sole purpose for which the petitioner sought summoning P.Ws.3, 4 and 6 was to confront them with some aspects which were not earlier put to them.

A witness cannot be recalled for such a purpose as, it amounts to filling the lacunae in the case of the party who seeks to summon the witnesses for further cross-examination.

For the above-mentioned reasons, I do not find any justifiable reason to interfere with the order passed

by the lower Court.

Accordingly, the Civil Revision Petition is dismissed.

As a sequel to dismissal of the Civil Revision Petition, CRPMP.No.5702 of 2015 is dismissed as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

14th October 2015

Note:

*Registry shall place this file
on administrative side before me.*

B/o

DR

[\[1\]](#) (2009) 4 SCC 410

[\[2\]](#) 2014(6) ALD 20