

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION Nos.2739, 2741, 2743 and 2744 of 2015

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Dated: 17.07.2015

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C.R.P.No.2739 of 2015

Between:

Putchakayala Venkata Ratnam

.. Petitioner.

And

Gade Raghava Rao
and two others.

.. Respondents.

Counsel for the Petitioner: Mr. K. Ramakoteswara Rao

Counsel for the Respondents: None appeared.

The Court made the following:

COMMON ORDER:

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These four revision petitions arise out of I.As. filed in a common suit. Hence, they are heard and being disposed of together.

The petitioner in I.A.Nos.514 and 515 of 2014 is defendant No.1, while the petitioners in I.A.Nos.469 and 470 of 2014 are defendant Nos.2 to 4 in O.S.No.69 of 2008 on the file of the learned Senior Civil Judge, Repalle, Guntur District. Respondent No.1 in the said I.As. has filed the above mentioned suit for specific performance of agreement of sale against the petitioners in the I.As.

On 27.02.2010, the evidence of PWs.1 and 2 was closed without their cross-examination. However, for reasons not known, the trial is hanging fire for the last five years and after DW.1 was cross-examined, the defendants filed two sets of I.As. Defendant No.1 filed I.A.No.515 of 2014 for reopening of evidence of PWs.1 and 2 and I.A.No.514 of 2014 for permitting him to cross-examine the said witnesses. Defendant Nos.2 to 4 have filed I.A.No.469 of 2014 for reopening of evidence of PWs.1 and 2 and I.A.No.470 of 2014 for permitting them to cross-examine the said witnesses.

The plaintiff/petitioner herein has strongly resisted these applications on the ground that having failed to avail the opportunity of cross-examining PWs.1 and 2, the defendants cannot be permitted to cross-examine the said witnesses after a lapse of more than four years. The lower Court has, however, rejected this objection and allowed the applications.

In the affidavits filed in support of these applications, the

defendants have pleaded that as the Advocate Commissioner appointed has chosen only Sundays for recording evidence, the counsel appearing for the defendants were unable to appear before the Advocate Commissioner on the date fixed by him for cross-examinations of PWs.1 and 2. The lower Court by making a liberal approach permitted the defendants to cross-examine the said witnesses.

The facts of the present case reveal that though the evidence of PWs.1 and 2 was closed as far back as 27.02.2010, the trial is still not completed. DW.2 is yet to be cross-examined. If the defendants are not given an opportunity of cross-examining PWs.1 and 2, the Court will not be in a position to completely and effectively adjudicate the suit. The intendment of law is to decide the cases on merits rather than by defaults. Therefore, for the proper and meaningful adjudication of the suit, it is necessary to give an opportunity to the defendants to cross-examine PWs.1 and 2. Keeping these considerations in view, I am not inclined to interfere with the discretion exercised by the lower Court in favour of the defendants.

For the above-mentioned reasons, these Civil Revision Petitions are dismissed.

As a sequel to dismissal of these revisions, C.R.P.M.P.Nos.3661, 3663, 3665 and 3666 of 2015 filed for interim reliefs are disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

17.07.2015

v v