

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

C.R.P.No.2779 of 2013

ORDER:

Heard Sri N.Siva Reddy, learned counsel for the petitioners and Sri S.Siva Bhami Reddy, learned counsel for 1st respondent.

2. This Revision Petition is filed under Article 227 of the Constitution of India challenging the Order dt.26-04-2013 in I.A.No.522 of 2013 in O.S.No.132 of 2006 of the Senior Civil Judge, Ramachandrapuram.

3. 1st respondent herein is 3rd plaintiff in the above suit. The said suit was filed by the petitioners and other plaintiffs for declaration of their title to the plaint schedule properties and for recovery of possession thereof and other reliefs. The suit was initially dismissed on 22-12-2009. The said decree was challenged in A.S.No.36 of 2010 before the District Court, Rajahmundry. The said appeal was allowed setting aside the judgment and decree of the trial Court dt.22-12-2009 and restoring the suit to the file of the lower Court to readmit the suit in its original number and to give opportunity to both sides to adduce evidence in support of the documents received as additional evidence in the appeal.

4. After remand, through P.W.4, the petitioner

and other plaintiffs intended to mark Exs.A-7 to A-19. So the petitioner and other plaintiffs filed I.A.No.523 of 2013 under Order 16 Rule 7 CPC to summon 1) an advocate, 2) Head Master of the ZP High School and 3) Secretary of the Gram Panchayat, Tapeswaram with original documents and registers relating to Exs.A-14, A-15, A-18 and A-19. They also filed I.A.No.522 of 2013 to recall D.Ws.1 and 3 for the purpose of further cross examination basing on Exs.A-8 to A-17 documents filed after remand in the trial Court.

5. By common order dt.26-04-2013, the Court below allowed both applications.

6. The petitioners in the Revision, who are defendant Nos.1 and 2, have filed this Revision Petition challenging only the order in I.A.No.522 of 2013 insofar as trial Court wanted to recall D.Ws.1 and 3 for the purpose of further cross examination basing on Exs.A-8 to A-17 documents concerned.

7. Learned counsel for the petitioners contended that the Court below erred in allowing I.A.No.522 of 2013; earlier lengthy cross examination of defendants had already been done by the petitioners and other plaintiffs; this application is filed only to cover the lacunas in the deposition of P.W.4; and that the trial Court cannot deviate from the frame work fixed by the District Court in the order of remand. It is also contended that

D.Ws.1 and 3 had been cross examined long back in the year 2009 and there is no need for summoning them for cross examination basing on Exs.A-8 to A-17.

8. The Court below held, in my opinion rightly, that 1st respondent cannot be accused of abusing the process of law since opportunity was given to him by the District Court in the order of remand for adducing evidence in support of the documents and merely because cross examination of D.Ws.1 and 3 was completed long back, this application cannot be dismissed. In my opinion, it has rightly held that once 1st respondent had been given permission in the appellate order to adduce further evidence and he has marked Exs.A-7 to A-19, he is also entitled to confront these documents by recalling D.Ws.1 and 3.

9. I therefore do not find any merit in this Civil Revision Petition and the same is accordingly dismissed. No costs.

10. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 10-07-2015

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