

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.2478 of 2015

ORDER: -

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioners/defendants 2 to 5, assailing the docket order dated 11.06.2015 of the learned Senior Civil Judge of Khammam, passed in O.S.No.325 of 2009 whereby the learned Judge, while refusing to grant further time for cross-examination of PW1 as granting of such time was opposed by the learned counsel for the plaintiff, had recorded that cross-examination of PW1 is closed.

2. I have heard the submissions of the learned counsel for both the sides. I have perused the material record.

3. The learned counsel for the revision petitioners/defendants 2 to 5 would submit that the suit is filed for partition and that valuable rights of the parties concerning immovable properties are involved in the suit and that if no opportunity is given to further cross-examine PW1, irreparable loss would ensue to the revision petitioners/defendants 2 to 5 and substantive rights stand routed.

4. On the other hand, the learned counsel for the first respondent/plaintiff would submit that the learned counsel for the defendants 2 to 5 had insisted for cross-examining both PW1 and PW2 at one time though there is no such a requirement in the present case and that the impugned order was passed by the Court below after granting sufficient opportunities to cross-examine PW1 and that therefore, the impugned order is sustainable.

5. I have bestowed my attention to the facts and to the submissions made. Since the suit is for partition of immovable property, this Court is of well-considered view that one more opportunity, in the interests of justice, can be given to the revision petitioners/defendants 2 to 5 to cross-examine PW1 at

one time, however on the condition that the defendants 2 to 5 shall not now insist for cross examining both PWs1 and 2 at the same time and later cross-examine PW2 after completion of cross-examination of PW1, as no circumstances for permitting cross examination of the said witnesses one after the other at the same time are made out. If the impugned order is set aside and an opportunity is now afforded to the defendants 2 to 5 to cross examine PW1 first, without acceding to the request for permission for cross examining both witnesses one after the other on the same day, such a course would sub-serve the ends of justice and would obviate the necessity of any remand of the suit to the Court below at a future point of time.

6. Accordingly, this civil revision petition is allowed at the stage of admission and the order impugned is set aside, giving an opportunity to the revision petitioners/defendants 2 to 5 to further cross-examine PW1 subject to the condition that they must cross examine the said witness (PW1) without fail, on the date that may be fixed by the Court below, within a period of two (02) weeks from the date of receipt of a copy of this order without insisting on their request to cross examine both the witnesses PWs 1 and 2 one after the other on the same day. However, after cross-examination of PW1 is completed on the day fixed, the Court below shall later permit the cross-examination of PW2 since no valid grounds are urged and made out for cross-examination of both the witnesses one after the other on the same day. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this revision shall stand dismissed.

M. Seetharama Murti, J

29th July, 2015

Note:-

Furnish C.C. by 07.08.2015
(B/o) Bvv