

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

Civil Revision Petition No.1938 of 2015

Between:

Smt.D.Lakshmi Devi

.... Petitioner

Vs.

Uppalapati Padmanabha Raju & Ors.

.... Respondents

DATE OF JUDGMENT PRONOUNCED: 14.08.2015.

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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ORDER:

Notice in this revision was served on respondents 1 to 3, who are defendants 1 to 3 in O.S.No.206 of 2007. The notice sent to respondents 4 to 6 was returned un-served. The fact, however, remains that respondents 4 to 6 (defendants 4 to 6) were set *ex parte* in the Suit itself.

I.A.No.175 of 2015 was filed to recall DW.3 for cross-examination. By the order under revision, the Court below observed that, even earlier, a similar petition was filed on 04.09.2014; the petition was allowed on condition that the petitioner should cross-examine DW.3 on his appearance; DW.3 appeared on 30.12.2014, but the petitioner failed to cross-examine him; as there was no representation for the petitioner till 11.20 A.M, the Court had treated the cross-examination of DW.3 as nil; though sufficient opportunity was given to the petitioner to cross-examine DW.3, he did not choose to do so; and, therefore, the application filed to recall PW.3 would not be entertained.

Sri A.S.C.Bose, Learned Counsel for the petitioner, would submit that the petitioner's counsel had instructed the counsel associated with him to seek a pass over; and, even before the petitioner's counsel could appear, the matter was called and cross-examination of DW.3 was treated as nil; if one more opportunity is given to the petitioner's counsel, he would cross-examine DW.3; and, if he does not cross-examine him on the next date, the Court below could treat cross-examination of DW.3 as nil.

I consider it appropriate, therefore, to provide one final opportunity to the petitioner to cross-examine DW.3. It is represented by the learned counsel for the petitioner that the Suit is posted for arguments on 28.08.2015. The petitioner is permitted to file an application before the Court below before 28.08.2015 to recall DW.3 and fix a date for his cross-examination. The Court below shall, on such an application being filed, fix a date for cross-examination of DW.3. In case the petitioner does not avail the opportunity of cross-examining DW.3 on the date so fixed, it is open to the Court below to treat the cross-examination of DW.3 as nil, and then proceed to decide the Suit in accordance with law.

The Civil Revision Petition is, accordingly, disposed of. The Miscellaneous Petitions, if any pending, shall also stand disposed of. No costs.

(RAMESH RANGANATHAN, J)

Date:14.08.2015.

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