

HON'BLE SRI JUSTICE R.SUBHASH REDDY

CIVIL REVISION PETITION No.187 of 2015

ORDER :

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/defendant No.4 aggrieved by the order and decree dated 18.12.2014 in I.A.No.749 of 2014 in O.S.No.858 of 2011, passed by the III Additional Senior Civil Judge, Vijayawada, dismissing the application filed by him under Order 18, Rule 17 and Section 151 of C.P.C., seeking to recall D.W.1 for cross-examination on his behalf.

2. The 1st respondent/plaintiff filed the aforesaid suit against the petitioner/defendant No.4 and respondent Nos.2 to 4, who are defendant Nos.1 to 3, for partition and separate possession of the plaint schedule property into four equal shares and for mesne profits. During the course of trial, D.W.1 was examined on 19.9.2014 and she was cross-examined by the learned counsel for 1st respondent/plaintiff. As the counsel for defendant No.4 reported no cross-examination in the open Court, the suit was posted for further evidence of defendant Nos.1 to 3. At that stage, the petitioner/defendant No.4 filed I.A.No.749 of 2014 seeking to recall D.W.1 for cross-examination on his behalf. The said application was resisted by the 1st respondent/plaintiff by filing counter

affidavit. The Court below, after considering the material on record, dismissed the said application through the impugned order dated 18.12.2014. Hence, the present civil revision petition.

3. Heard learned counsel for the petitioner/defendant No.4 as well as the learned counsel for respondent No.1/plaintiff and perused the impugned order.

4. From a perusal of the impugned order, it is clear that the petitioner/defendant No.4, at one point of time, having reported no cross-examination of D.W.1, filed the present application to recall D.W.1 for cross-examination on his behalf, on the ground that cross-examination of D.W.1 is very essential, which cannot be permitted without there being any changed circumstances or new facts came into light. Therefore, having regard to the reasons assigned by the Court below, I do not find any reason to interfere with the impugned order.

5. For the aforesaid reasons, this civil revision petition is devoid of merits and is accordingly dismissed, at the admission stage. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH

REDDY
27.02.2015.

Msr

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