

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.16 of 2016

ORDER :

Heard Sri D. Bhaskar Reddy, counsel for petitioner,
and Smt. P. Laxmi, counsel for 1st respondent.

2. This Revision is filed challenging the order dt.29.10.2015 in I.A.No.284 of 2015 in F.C.O.P.No.133 of 2012 on the file of Judge, Family Court-cum-III Additional District Judge, Warangal.

3. The petitioner herein is respondent in the above O.P.

4. The said O.P. was filed by respondents for maintenance against petitioner.

5. The respondent adduced evidence on 06.08.2015 and she was elaborately cross-examined.

6. Thereafter, the petitioner also led evidence and the matter was posted for hearing of arguments on 19.10.2015. On that day, I.A.No.284 of 2015 was filed by petitioner to re-open the case for further cross-examination of PW.1 alleging that during the 1st respondent's cross-examination she willfully suppressed some material points; that petitioner was unable to cross-examine her on those aspects; that 1st respondent did not

file depositions in C.C.No.278 of 1997 which show allegedly that certain amount was received by her; and since these questions were not put to plaintiff/1st respondent, the said application be allowed.

7. Counter-affidavit was filed by respondents opposing this application. It is stated that there is no ground justifying re-call of PW.1, particularly when 1st respondent was thoroughly cross-examined by petitioner. It was also stated that the plea of petitioner that he wanted to cross-examine her on various matters is vague and untenable, and that this application is filed only to fill up the lacunae in his case.

8. By order dt.29.10.2015, the Court below dismissed the said application. It observed that PW.1 was cross-examined at length and the application filed by petitioner did not indicate on what aspects he wants to further cross-examine PW.1; that a plea stating that some questions were forgotten, as mentioned in petitioner's affidavit, is not sufficient; that although petitioner contended that PW.1 deposed in a different manner in a criminal case, that evidence was recorded in the criminal case after both parties have arrived at an understanding to close all cases. It held that the said evidence cannot be called in aid in the present case and that petitioner had not stated that he had found any new evidence which was not within his knowledge at the time when PW.1 was

cross-examined.

9. Challenging the same, the present Revision is filed.

10. Sri D. Bhaskar Reddy, counsel for petitioner contended that the depositions in C.C.No.278 of 1997 to which both parties herein were also parties were not filed. The said depositions cannot be admissible in evidence since both parties are alive. Nothing prevented petitioner from cross-examining PW.1 by confronting her deposition in C.C.No.278 of 1997 when she was in the witness box, but he failed to do so. Merely because petitioner contends that he forgot to put some questions when PW.1 was cross-examined in the witness box, it cannot be a ground to re-open evidence and re-call PW.1.

11. It is settled law that power to re-call and examine witness is to be sparingly exercised and in appropriate case and not as a general rule merely on the ground that re-call and re-examination of a witness would not cause any prejudice to the parties. (See **Vadiraj Naggappa Vernekar v. Sharadchandra Prabhakar Gogate**^[1])

12. In this view of the matter, I do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India. Therefore, the Civil Revision Petition is dismissed. No order as to costs.

13. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 05-02-2016

Ndr/*

[\[1\]](#) AIR 2009 SC 1604