

HON'BLE SRI JUSTICE G. SHYAM PRASAD

CIVIL REVISION PETITION No.2660 OF 2016

ORDER:

This Civil Revision Petition arose out of the order dated 04.04.2016, passed in I.A. No.354 of 2016 in Original Suit No.165 of 2012 by the Senior Civil Judge, Vizianagaram, (for short, 'the trial Court').

The revision petitioner is the 1st defendant and the respondents herein are the plaintiffs in O.S. No.165 of 2012. The revision petitioner, being aggrieved by the impugned order of the trial Court, preferred this Revision on the ground that he filed an affidavit under Order XVIII Rule 17 of C.P.C. to recall PW.1 for further cross-examination for rebutting certain documents, which were confronted to DW.1 in his cross-examination. The trial Court considering the contentions of both sides has arrived at a conclusion that the revision petitioner-1st defendant is not entitled to recall PW.1 for further cross-examination for rebutting certain documents which were confronted to DW.1 in his cross-examination on the ground that such an act falls nothing short of facilitating the request maker for taking his pleading a different and contradictory turn, which is impermissible under law.

In paragraph 9 of the order, the trial Court further observed as under:

"9. A close scrutiny of the application with reference to the testimonies of PW.1 and DW.1 does not disclose either legal or factual basis for entertaining and allowing the application which came to be filed at very belated stage in the principal matter, which being of year 2012 and having the senior citizens as parties, is required to be disposed off as expeditiously as possible as per norms of Honourable superior Courts, consequently the application deserves dismissal."

Learned counsel for the revision petitioner-1st defendant submits that the respondents-plaintiffs have examined PW.1 and marked Exs.P-9 to P-11 during the cross-examination of DW.1 and the revision petitioner-1st defendant has no opportunity to cross-examine PW.1 on those documents and, therefore, sought for recalling of PW.1.

Learned counsel for the respondents-plaintiffs opposed for recalling of PW.1 for cross-examination of these documents on the ground that the revision petitioner-1st defendant has not clearly mentioned in his affidavit about the nature of the documents and the purpose for recalling PW.1.

Considering the facts and circumstances of this case, since the documents Exs.P-9 to P-11 were marked in the cross-examination of DW.1 and as those documents pertain to the respondents-plaintiffs, the ends of justice would be met if PW.1 is recalled for further cross-examination on those documents.

Accordingly, the Civil Revision Petition is allowed directing the trial Court to permit the revision petitioner-1st respondent to recall PW.1 for further cross-examination only in respect of documents marked as Exs.P-9 to P-11 but not on any other aspect. Further, the trial Court is directed to complete the entire trial within a period of one (1) month from the date of receipt of a copy of this order, after giving opportunity of cross-examining PW.1. No order as to costs.

In consequence, miscellaneous petitions, if any, pending in this Revision shall stand closed.

G. SHYAM PRASAD, J

Date: 17-06-2016.
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