

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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Civil Revision Petition No.1284 of 2016

ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the 1st Additional Junior Civil Judge, Visakhapatnam in I.A.No.701 of 2015 in O.S.No.940 of 2010 dated 29.01.2016.

I.A.No.701 of 2015 was filed by the petitioner herein under Order 18 Rule 17 read with Section 151 CPC to recall PW.1 for the purpose of cross-examination. From the facts as noted by the Court below, in the order under revision, it is evident that the plaintiff had filed his affidavit-in-chief on 09.07.2012; he was cross-examined at length by the petitioner herein on 22.08.2013; the present application was filed by the petitioner seeking to recall PW.1, and subject him to cross-examination, on the ground that, even prior to institution of the Suit, he had entered into an agreement of sale with Sri M.V.Prasad Reddy; and a Suit in O.S.No.483 of 2015 was filed by Mr.M.V.Prasad Reddy seeking specific performance of the agreement of sale.

In the order under revision, the Court below observed that there were insufficient reasons to reopen the evidence of PW.1; the said provision was not intended to fill-up omissions in the evidence of a witness; the petitioner did not show reasonable cause or the purpose for which PW.1 was sought to be recalled; and, in the absence of reasonable cause, it was merely an attempt to fill up the lacunae.

Before this Court Sri M.P.Chandramouli, Learned Counsel for the petitioner, would contend that suppression of the fact, of an agreement of sale having been entered into on 15.02.2010, was required to be put to PW.1 in cross-examination; and, as the petitioner came to know of the said agreement of sale only recently, it could not be said that his application to recall PW.1 was belated.

The application to recall PW.1 was filed on 18.11.2015 nearly two years and three months after PW.1 was cross-examined on 22.08.2013. Respondents 1 to 5 (the plaintiffs) had filed the present Suit seeking

eviction of the petitioner from the suit schedule property. The Suit, in O.S.No.483 of 2015, was for specific performance of an agreement of sale. What is required to be stated before the Court is only relevant facts, and it is not shown as to how a suit for specific performance of an agreement of sale, or an agreement of sale having been entered into, has any bearing in the present suit seeking eviction of the petitioner, as it is not in dispute that Respondents 1 to 5 (the plaintiffs) continue to be the owners of the property even as on date.

The jurisdiction, which this Court exercises, under Article 227 of the Constitution of India, is supervisory and not appellate. Save patent illegality in the order under revision, no interference is called for. The order of the Court below does not suffer from any patent illegality necessitating interference in proceedings under Article 227 of the Constitution of India.

The Civil Revision Petition fails and is, accordingly, dismissed. The Miscellaneous Petitions, if any pending, shall also stand dismissed. No costs.

(RAMESH RANGANATHAN, J)

Date:11.03.2016.

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