

**THE HON'BLE SRI JUSTICE S.V.BHATT**

**CIVIL REVISION PETITION Nos.1427 and 1426 of 2016**

**COMMON ORDER:**

Plaintiffs in O.S.No.200 of 2010 in the Court of Junior Civil Judge, Atmakur are the revision petitioners.

2. Revision petitioners through I.A.Nos.76 and 77 of 2016 prayed for reopening of the suit for trial and setting aside the order eschewing the chief examination affidavit filed by revision petitioners. The prayers were rejected by the trial Court. Hence, the revision petitions.

3. This Court ordered noticed on 16.03.2016. The first respondent, though served, is not represented by counsel. Respondents 2 and 3 are represented by Mr. J. Janaki Rami Reddy.

4. The trial Court rejected the instant prayers, briefly stated, on four grounds viz. revision petitioners have taken 24 adjournments without getting into the witness box; plaintiffs are in the habit of filing series of applications for one relief or the other; the defendant reported no evidence; the suit is closed and lastly, it is posted for arguments.

5. Mr. C. Prakash Reddy submits that the revision petitioners have been put to very rigorous test by the trial Court and in the process, a few of the aspects, which ought not to have been included to determine commission or omission of revision petitioners, have been included and consequently, the applications are erroneously dismissed.

Learned counsel further submits that in between the parties for the very same subject matter, O.S.No.144 of 2007 is pending before the Junior Civil Judge, Atmakur. The closure of evidence in this fashion ought to have been avoided to meet the ends of justice. To point out the illegal exercise of jurisdiction by the trial Court, learned counsel contends that on the day the

evidence of plaintiffs was closed, admittedly, the plaintiffs did not enter the witness box and there is no chief examination affidavit recorded by the trial Court to eschew evidence. The eschewing of evidence is erroneous. Therefore, learned counsel prays for setting aside the orders and grant time to revision petitioners to adduce evidence on their behalf within the time the Court considers prescribing in this behalf.

6. Mr. J. Janaki Rami Reddy relies upon the findings records by the trial Court and contends that the consideration of prayer of revision petitioners would only pay premium to litigants, who procrastinate matters and if at all the revision petitioners herein intend to adduce evidence, they are not shut out of opportunities in O.S.No.144 of 2007 and prays for dismissal of revision petitions.

7. The revision petitions are directed against the order of the learned trial Judge declining to exercise the discretion to reopen the suit for trial and restore the chief examination affidavit already filed by revision petitioners. A bare reading of the order impugned in the revision petitions, no doubt, discloses that the trial Court has, in fact, taken note of the conduct of revision petitioners, the procrastinating attitude exhibited by them in conducting the trial of O.S.No.200 of 2010 and the reasonable opportunities afforded by the trial Court. *Prima facie*, this Court is also in agreement with the views expressed by the trial Court. Fact of the matter is for the same subject matter, suit in O.S.No.144 of 2007 is pending between the parties. With a view to place on record what could not be done by the revision petitioners herein in the instant case, petitioners may further delay the trial in O.S.No.144 of 2007 for placing evidence on their behalf. It may be that a few adjournments, which were not at the instance of petitioners, are also added to their credit. To give one fair and reasonable opportunity of participation in trial, the orders impugned in the revision petitions are set aside with these conditions.

9. The revisions petitioners are directed to adduce evidence on their side within four (4) weeks from today. It is made clear that if the revision petitioners revisit or conduct the trial with old requests, the trial Court is directed to pass final orders in O.S.No.200 of 2010. Further both suits are taken up on one day for convenience and early completion.

The civil revision petitions are ordered as indicated above.

As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

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S. V. BHATT, J

June 27, 2016

**Note:** Furnish C.C. of the order by 29.06.2016.

(**B/o**) DSK