

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 1108 of 2016

ORDER:

The present Civil Revision Petition is filed under Article 227 of the Constitution of India, aggrieved by the order dated 20.01.2016 passed in I.A.No.1178 of 2015 in O.S.No.293 of 2009 on the file of the Principal Senior Civil Judge, Chittoor, wherein an application filed under Order 18 Rule 17 and Section 151 of CPC seeking to recall PW.2 for cross examination was rejected.

The main ground on which the said application was rejected was that inspite of giving number of opportunities to the petitioner to cross examine the witness, he could not avail the same. It was also observed that an amount of Rs.200/- imposed towards costs, while adjourning the matter on 30.11.2015, was not paid. Taking into account all the said circumstances, the said I.A. was dismissed on 20.01.2016. Challenging the same, the present revision is filed.

The ground urged by the learned counsel for the petitioner is that the petitioner counsel could not attend the Court on 10.12.2015 for cross examination of PW2 was on account of death of one Senior Advocate by name Sri Md.Iqbal Hussain and that the same is neither willful nor wanton.

Though he admits that he could not attend the cross examination on earlier occasions, but however, pleads an opportunity may be given for cross examination of PW2 on such terms as this Court deems fit. The same is opposed by the

learned counsel for respondent.

As seen from the records, trial in the said case is not yet complete. It is stated across the Bar that the examination of PW4 is just completed. Having regard to the same and since no prejudice would be caused, if an opportunity is given to the petitioner to cross examine PW2 on certain terms and conditions, the present revision deserves to be allowed on certain terms.

Accordingly, the Civil Revision Petition is allowed on payment of cost of Rs.1,000/- to the respondent/plaintiff. Further, respondents/plaintiff shall produce PW2 before the trial Court on 08.07.2016 on which date, the Court shall permit the petitioner to cross examine the said witness. It is made clear that no adjournment shall be given to the petitioner on the said date. It is further made clear that if for some reason PW2 could not make himself available on that day, the trial Court shall post the matter to a nearest date.

As a sequel thereto, Miscellaneous Petitions pending if any in this Civil Revision Petition, shall stand closed.

C. PRAVEEN KUMAR, J

01.07.2016 _____

Note:

Issue CC in two days.

B/o.

vhb