

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.1574 of 2016

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/defendant aggrieved by the order and decree dated 27.01.2016 passed in I.A.No.971 of 2015 in O.S.No.203 of 2012 by the Principal Junior Civil Judge, Huzurabad, Karimnagar District, dismissing the application filed under Section 151 of C.P.C., seeking to re-open the case for further cross-examination of P.W.1.

The petitioner is defendant and the respondent is plaintiff in O.S.No.203 of 2012 on the file of Principal Junior Civil Judge, Huzurabad, Karimnagar District.

For the sake of convenience, the parties will be referred to as they are arrayed in O.S.No.203 of 2012.

The facts, in brief, are that the plaintiff filed suit in O.S.No.203 of 2012 against the defendant for declaration of title and injunction. It is the case of the defendant that his earlier counsel cross-examined P.W.1, but during the course of cross-examination, his earlier counsel failed to handover the full file to the new counsel, hence cross-examination was not properly done. It is further stated that the plaintiff did not supply all the material and his present counsel recently obtained copies of plaint, written statement and other exhibits in A-series. As Exs.A.1 and A.2, Exs.P.17 to P.20 have to be confronted to P.W.1

along with other facts, he sought for further cross-examination of P.W.1. The said application was opposed by the learned counsel for plaintiff stating that P.W.1 was cross-examined by the present counsel only and not by the previous counsel and all the copies of documents were furnished to the defendant along with the written statement. After hearing both sides and considering the material on record, the Court below dismissed the said application. Hence the present Civil Revision Petition.

Heard learned counsel for the petitioner/defendant and learned counsel for the respondent/plaintiff and perused the material on record.

It is to be noted that P.W.1 was cross-examined on 21.11.2013 in part and again on 10.07.2014 by the present counsel only and not by the previous counsel. Therefore, the contention of the defendant that the earlier counsel has not properly cross-examined P.W.1 and that further cross-examination of P.W.1 by the new counsel is required, cannot be accepted. One more argument, which is sought to be advanced by the learned counsel for defendant, is that the plaintiff did not supply all the copies of documents for the purpose of proper cross-examination of P.W.1. The said contention is also untenable for the reason that all the copies of documents were supplied to the defendant even prior to the filing of written statement by him.

The Apex Court in VADIRAJ NAGGAPPA

VERNEKAR v. SHARADCHANDRA PRABHAKAR

GOGATE^[1] observed as follows:

“In our view, though the provisions of Order 18 Rule 17 C.P.C. have been interpreted to include applications to be filed by the parties for recall of witnesses, the main purpose of the said Rule is to enable the Court, while trying a suit, to clarify any doubts which it may have with regard to the evidence led by the parties. The said provisions are not intended to be used to fill up omissions in the evidence of a witness who has already been examined.”

It has been brought to the notice of this Court that in the instant case, arguments were already advanced and the suit is posted for pronouncement of judgment.

Having regard to the object set out in the judgment of the Apex Court referred to above and taking into consideration the totality of the circumstances, I am not inclined to interfere with the impugned order dated 27.01.2016 passed by the Court below.

For the aforesaid reasons, this Civil Revision Petition is devoid of merits and the same is accordingly dismissed. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE C. PRAVEEN KUMAR

25.04.2016.

Msr

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[\[1\]](#) (2009) 4 SCC 410