

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION Nos.2927 and 3101 of 2016

COMMON ORDER:

C.R.P.No.2927 of 2016 is filed, aggrieved by the order dated 24.03.2016 passed in I.A.No.166 of 2016 in O.S.No.364 of 2012 on the file of the Additional Senior Civil Judge, Tirupati, wherein an application under Section 151 C.P.C. to re-open the matter was dismissed. C.R.P.No.3101 of 2016 is filed aggrieved by an order dated 24.03.2016 passed in I.A.No.167 of 2016 in O.S.No.364 of 2012, wherein an application made under Section 151 of C.P.C. to set aside the order dated 19.02.2016 to eschew the evidence of DW.3 was dismissed.

Since the issue involved in both the Civil Revision Petitions filed under Article 227 of the Constitution of India are interconnected, they are being disposed of by this common order.

The facts in issue are as under:

The respondent/plaintiff filed O.S.No.364 of 2012 seeking permanent injunction and the same was posted to 19.02.2016 for cross examination of DW.3. Since DW.3 met with an accident and got his left leg was

fractured restricting his movements, could not attend the Court. Due to non-production of DW.3, the trial Court closed the evidence of DW.3 and posted the matter for arguments. As the evidence of DW.3 is essential to prove the title and possession, the defendant filed petitions to re-open the case and also to set aside the order of eschewing the evidence of DW.3. The trial Court dismissed both the petitions on the ground that inspite of giving number of opportunities, DW.3 was continuously absent and the petitions were filed only to drag the matter. It was also held that no material or medical proof is filed to show that DW.3 met with an accident and was bedridden due to fracture of his left leg. Aggrieved by the same, the petitioner filed both the Civil Revision Petitions.

A perusal of the material on record would show that after passing of the order dated 24.03.2016 the matter underwent number of adjournments and suit was posted for arguments. Therefore, if the arguments are not heard till today and if any fresh material is filed along with a petition to show that DW.3 could not appear before the Court due to fracture of left leg sustained in an accident, the same shall be accepted by the learned Additional Senior Civil Judge, Tirupati and pass orders within two (02) weeks thereafter.

With the above direction, both the Civil Revision

Petitions are disposed of. No order as to costs.

As a sequel thereto, Miscellaneous Petitions pending if any, shall stand closed.

JUSTICE C.PRAVEEN

KUMAR

04.07.2016

Note: Issue C.C. in two days.

B/o

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