

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.3075 OF 2016

ORDER:

This revision petition, under Article 227 of the Constitution of India, is filed challenging the Order dated 12.04.2016, in I.A. No.568 of 2016 passed by the X Additional Chief Judge, City Civil Court, Hyderabad, whereby the trial court declined to recall the witness-P.W.1 for further cross-examination disbelieving the ground that the counsel for the petitioner did not turn up as he allegedly undergoing ankle treatment.

02. The revision petition is filed raising several contentions. Sri Muralinarayan Bung, learned counsel for the petitioner, while reiterating the contentions raised in the revision petition, seeks the indulgence of this Court to permit him to cross-examine the witness so that he can complete the entire cross-examination.

03. Sri V. Hari Haran, learned counsel for the respondents, opposed to recall P.W.1 on the ground that the witness was being cross-examined from 25.11.2010 and delaying the matter for one reason or the other.

04. It is the case of the petitioner that affidavit of P.W.1 was filed under sub-Rule (2) of Rule 4 of Order XVIII of the Code of Civil Procedure, 1908 on 03.07.2007, since then the matter was coming for cross-examination. The witness was cross-examined by the counsel for the third defendant for three years on different dates and thereafter the counsel for the second defendant was successful in cross-examining the witness. However, it is brought to my notice that the Presiding Officer was not posted in that Court for two years. In any event, the counsel for the petitioner assured that he will complete cross-examination on a particular date, if sufficient time is given to complete cross-examination.

05. The counsel for the petitioner reported that on 30.08.2016 is most convenient day for completion of cross-examination and the counsel for the respondent reported that the witness is ready for further cross-examination on that day. Taking into consideration of the assurance given by Sri Muralinarayan Bung, learned counsel for the petitioner, to avoid unnecessary complications, the trial court is directed to take up the matter immediately after call work on 30.08.2016 so that the counsel for the petitioner can complete cross-examination. If the Officer is on leave or for any other reason beyond control of the petitioner, the trial court is directed to take up the matter on the next court working day.

06. With the above direction, the civil revision petition is allowed setting aside the order dated 12.04.2016 in I.A. NO.568 of 2016 in O.S. NO.9 of 2003 passed by the X Additional Chief Judge, City Civil Court, Hyderabad. In the event the witness is produced and the counsel for the petitioner failed to cross-examine the witness, the petition shall stand dismissed without reference to this Court. No costs.

07. Miscellaneous petitions, if any, pending in this revision petition shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 16.08.2016

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