

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.219 of 2016

ORDER:

This Civil Revision Petition is filed challenging the order dt.07-10-2015 in I.A.No.619 of 2015 in O.S.No.772 of 2008 of the Additional Senior Civil Judge, Warangal.

2. Petitioner is a plaintiff in the suit. He filed the suit against the respondents for partition of the plaint schedule properties and for his 1/3rd share therein. Chief examination affidavit of the petitioner/P.W.1 was filed on 04-12-2012 but he delayed his cross examination till 18-12-2014. P.W.2 filed affidavit in chief examination on 06-02-2014 and on 02-04-2015, the lower Court had passed an order closing his evidence.
3. Four months later, on 11-08-2015, the petitioner filed I.A.No.619 of 2015 to set aside the order dt.02-04-2015 to enable him to examine P.Ws.2 and others. In this affidavit, no reason was assigned for the delay of four months in filing this application. It was merely stated that on 02-04-2015, petitioner's advocate was out of station and did not attend the Court and the petitioner was away at Nagpur on account of his employment.
4. Taking note of the fact that the matter was posted for the defendant's evidence from 09-04-2015 and although D.Ws.1 to 3 have been examined in chief, the petitioner had not cross examined D.W.1 and also taking into account the above referred conduct, the Court below held that the petitioner is indifferent to the Court proceedings and has exhibited non-cooperation and an evasive attitude. It therefore dismissed the said application.
5. Although the learned counsel for the petitioner sought to

contend that the petitioner, due to unavoidable reasons could not immediately approach the Court for reopening his evidence, having regard to the conduct of the petitioner as indicated in the order passed by the Court below, I am of the opinion that the Court below was justified in dismissing I.A.No.619 of 2015. I am satisfied that there is no error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India.

6. Therefore, the Civil Revision Petition fails and the same is accordingly dismissed. No costs.
7. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 28-01-2016

kvr