

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

C.R.P.No.30 of 2016

ORDER:

Heard the learned counsel for the petitioner. None appears for the respondent.

2. This Revision Petition is filed challenging the order dt.31-07-2015 in I.A.No.89 of 2015 in O.S.No.69 of 2009 of the Junior Civil Judge, Thorrur, Warangal.

3. Petitioner is the defendant in the suit. The respondent filed the suit against the petitioner for perpetual injunction restraining the petitioner from interfering with his alleged possession and enjoyment of the suit schedule property.

4. Written statement was filed disputing the suit claim by the petitioner. Issues were framed. Trial commenced. Three witnesses were examined for the respondent-plaintiff. Thereafter, the petitioner also led evidence and the matter was posted for arguments.

5. At this stage, the petitioner filed I.A.No.89 of 2015 invoking Order 18 Rule 17 CPC alleging that P.W.3, who is the vendor of the respondent, fabricated a particular document and gave false evidence also and it is therefore necessary to recall him for the purpose of cross examination to expose his character and demeanor.

6. Counter affidavit was filed by the respondent opposing this application. The respondent contended that the petitioner had already cross examined P.W.3 at length and covered the entire facts and he has not disclosed any valid grounds for recall of P.W.3.

7. By order dt.31-07-2015, the Court below dismissed the said application. It held that the affidavit filed by the petitioner did not disclose particulars of the documents on which he wanted to cross examine P.W.3, that he did not mention about the fabrication of any document in his written statement and he had given number of suggestions to P.W.3 during the course of P.W.3 cross examination with reference to fabrication of documents. It therefore held that the I.A. was filed only to drag on the proceedings.

8. Challenging the same, this Revision Petition is filed.

9. Although the learned counsel for the petitioner sought to contend that the order passed by the Court below is erroneous and that the Court below ought to have recalled P.W.3 for further cross examination with regard to fabrication of documents, the learned counsel for the petitioner did not dispute the fact that P.W.3 had been elaborately cross examined with regard to the fabrication of documents during the course of his cross

examination. In fact there was no plea raised by the petitioner in the Written Statement about the fabrication of said document. Therefore, I am of the opinion that the Court below was justified in dismissing the I.A.No.89 of 2015 by the impugned order.

10. I do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India.

11. Therefore, the Civil Revision Petition fails and the same is accordingly dismissed. No costs.

12. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 26-02-2016

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