

THE HON'BLE SRI JUSTICE SANJAY KUMAR
CIVIL REVISION PETITION NO.5008 OF 2016

O R D E R

This revision under Article 227 of the Constitution arises out of the order dated 23.08.2016 passed by the learned Principal District Judge, Ranga Reddy District at L.B.Nagar, in I.A.No.1929 of 2016 in O.S.No.57 of 2004. This I.A. was filed by defendants 6 to 10 in the suit under Order 17 Rule 2 CPC seeking deferment of further cross-examination of D.W.1 till their cross-examination of P.W.1 was completed. By the order under revision, the trial Court disallowed this plea. Aggrieved, defendants 6 to 10 are before this Court.

By order dated 21.10.2016, this Court granted interim stay of further proceedings in the suit.

O.S.No.57 of 2004 was originally filed against five defendants seeking declaration of the plaintiffs' title over the suit schedule property; a declaration that the sale deed executed by the 2nd defendant in favour of the 1st defendant, bearing Document No.16509/2003 dated 27.12.2003, was null and void; and for a permanent injunction restraining the defendants from interfering with the plaintiffs' possession and enjoyment of the suit property. Defendants 6 to 10 were impleaded in the suit pursuant to an order passed by this Court in revision.

Heard Sri A.Sanjeeva Reddy, learned counsel for the petitioners/defendants 6 to 10 and Sri Vedula Venkataramana, learned senior counsel appearing for the respondents/plaintiffs.

Sri Vedula Venkataramana, learned senior counsel, fairly conceded that the application filed by the petitioners/defendants 6 to 10 to permit them to cross-examine P.W.1 was allowed by the trial

Court. At the stage when the said application was allowed, cross-examination of D.W.1 was in progress. As the petitioners/defendants 6 to 10 apprehended that they would be prejudiced if they were asked to cross-examine D.W.1 before they could cross-examine P.W.1, they filed the subject I.A. The only reason for the trial Court to disallow their plea was that P.W.1 had gone abroad for treatment.

Having allowed the petitioners/defendants 6 to 10 to cross-examine P.W.1 after closure of the plaintiffs' evidence, the trial Court ought to have followed the normal procedure of permitting them to first cross-examine the plaintiffs' witness (P.W.1) before they were required to cross-examine the co-defendants' witness (D.W.1). The trial Court ought not to have deviated from this procedure merely because P.W.1 was not available at that point of time.

Sri Vedula Venkataramana, learned senior counsel, states that P.W.1 is now available for further cross-examination.

In that view of the matter, the Civil Revision Petition is allowed setting aside the order dated 23.08.2016 passed by the learned Principal District Judge, Ranga Reddy District at L.B.Nagar, in I.A.No.1929 of 2016 in O.S.No.57 of 2004. The trial Court shall endeavour to secure the presence of P.W.1 expeditiously to enable his cross-examination by the petitioners/defendants 6 to 10. Interim order dated 21.10.2016 shall stand vacated. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

16th DECEMBER, 2016

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