

HON'BLE SRI JUSTICE S. RAVI KUMAR

C.R.P No.1532 of 2016

ORDER:

This revision is preferred questioning order dated 19.02.2016 in I.A.No.64 of 2014 in O.S.No.6 of 2007 on the file of Junior Civil Judge, Pulivendula.

2. Revision petitioner herein is plaintiff in O.S.No.6 of 2007 and I.A.No.64 of 2014 is filed to recall DW.1 for further cross-examination. Court below on a consideration of material on record dismissed the application holding that suit is of the year 2007 and evidence of both sides was completed and all the documents were also marked, and at that stage, plaintiff came forward with the present application only to drag the matter, on these grounds, the application is dismissed. Questioning the same, present revision is preferred.

3. Heard both sides.

4. Advocate for revision petitioner submitted that the plaintiff got summoned documents from school authorities and marked them and to confront with those documents, recall of DW.1 is necessary, but the court below has not given any opportunity to revision petitioner. He further submitted that the main contention of plaintiff is that RW.1 was a minor as on the date of sale deed dated 11.01.1978, and for that purpose, the documents are marked and DW.1 has to be confronted with those documents to prove plaintiff's case.

5. On the other hand advocate for respondents submitted that the trial court rightly dismissed the application as nothing is

whispered in the affidavit filed in support of the petition and that there are no grounds to interfere with the orders of court below.

6. I have perused the material papers including the impugned order dated 19.02.2016 in I.A.No.64 of 2014. The plaintiff filed his affidavit in support of I.A.No.64 of 2014, entire affidavit is only about the plea of plaintiff that was taken in the plaint with regard to the age of first respondent as on the date of sale deed dated 11.01.1978. After narrating his case in paras 3 and 4 of the affidavit, the reasons for recall, she stated that DW.1 has to be confronted in the cross-examination with reference to the above facts, therefore recall is necessary. But admittedly, DW.1 was already cross-examined on behalf of plaintiff and nothing is whispered in the affidavit what made the plaintiff to recall DW.1 and why these aspects were not put to DW.1 when he was in the witness box during earlier cross-examination.

7. As per the findings recorded in the order, the entire evidence on behalf of both parties was over and only at the stage of final conclusion, present application is filed. Though advocate for revision petitioner submitted that to confront documents that are marked as Ex.C1 and Ex.C2, recall of DW.1 is necessary, no such facts are stated in the affidavit filed in support of the petition. In the absence of any such request from plaintiff in his affidavit, the argument advanced on behalf of revision petitioner cannot be accepted.

8. For these reasons, I am of the view that court below has not committed any error either on jurisdictional aspect or in considering the material while dismissing I.A.No.64 of 2014, therefore revision is devoid of merits and liable to be dismissed.

9. Accordingly, this Civil Revision Petition is dismissed.
No costs. Miscellaneous petitions, if any pending, in this Revision
shall stand closed.

S. RAVI KUMAR, J

Date: 22-06-2016.

gvl