

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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C.R.P.Nos.1221 & 1222 of 2016

COMMON ORDER:

These two revisions are preferred against the orders passed by the learned Principal Junior Civil Judge, Visakhapatnam in I.A.Nos.1452 and 1453 of 2015 respectively in O.S.No.926 of 2012 dated 19.01.2016.

The 1st respondent herein filed an application to summon an official from the Endowments Department and for production of certain records. The said witness was, thereafter, examined as P.W.4 on 04.12.2015. Certain documents were marked through the witness as exhibits to show that the property of the trust had not been taken over by the Endowments Department. The petitioner claims to have sought time, but the Court below closed the I.A. on the same day. Thereafter I.A. No.1452 of 2015 was filed by the petitioner herein to reopen the evidence of P.W.4, and I.A.No.1453 of 2015 was filed to recall P.W.4 for his being subjected to cross-examination by the petitioner herein. The Court below, by the orders under revision, dismissed the I.As on the ground that the petitioner was well aware about what the witness would speak; and it was the duty of the petitioner to examine the witness without seeking further time.

From the aforesaid events, it is evident that the petitioner herein had not sought time to drag on proceedings. As the witness was examined on 04.12.2015, and certain documents were marked through him on that day, the petitioner had merely sought time to cross-examine him on another day. The Court below could have given the petitioner one more opportunity to cross-examine the witness on any other day. While the Court below has erred in closing the evidence of P.W.4 on 04.12.2015 itself, what is disconcerting is that, on applications being filed to reopen the evidence of the witness and to cross-examine him, the Court below dismissed the applications on the ground that the petitioner must be aware of the contents and should have cross-examined the witnesses on the very same day on which he was examined in chief.

With a view to give the petitioner one more opportunity to cross-examine the witness, both the orders under revision are set aside. The evidence of P.W.4 shall be reopened and the Court below shall fix a date for his appearance and for his being cross-examined by the petitioner herein. It is made clear that, in case the petitioner does not avail the opportunity of cross-examining P.W.4 on the day fixed by the Court, it is open to the Court below to proceed and decide the Suit without giving any further opportunity to the petitioner herein.

Sri E.V.V.S. Ravi Kumar, learned counsel for the petitioner, would submit that, while the Court below has reserved judgment in the suit, it has not yet pronounced judgment even as on date. It is made clear that the order now passed is on the premise that the Court below has not already pronounced the judgment, and in case the judgment has already been pronounced, all contentions now urged before this Court would be available to be urged by the petitioner in appeal.

Both the C.R.Ps are disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

29th April 2016.
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Date: 29.04.2016

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