

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

-

Civil Revision Petition No.351 of 2016

ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the XX Junior Civil Judge, Hyderabad, in I.A.No.341 of 2015 in O.S.No.437 of 2013 dated 14.09.2015. The petitioner herein is the defendant in O.S.No.437 of 2013 and the petitioner in I.A.No.341 of 2015. The said I.A. was filed under Section 151 CPC to reopen the suit for the purpose of cross-examination of PW.1.

In the order under revision, the Court below referred in detail to the numerous adjournments granted by it only to accommodate the counsel for the petitioner; PW.1 was examined in chief on 05.02.2015 and the Suit was posted for his cross-examination on the same day; on 18.02.2015 PW.1 was absent; on 04.03.2015 there was no representation from both sides; on 07.03.2015 there was no representation for the defendant; on 06.04.2015 PW.1 was present, but the defendant was not ready and the matter was posted for cross-examination on payment of costs of Rs.100/-; on 15.04.2015 PW.1 was present at 1.10 P.M, but there was neither any representation nor was costs paid and, consequently, the matter was adjourned imposing further costs of Rs.100/- and a conditional order was passed that the cross-examination of PW.1 shall be treated as nil on the next adjournment; on 18.06.2015 costs was not paid, and the matter was posted to 25.06.2015; on 25.06.2015 PW.1 was absent; on 07.07.2015 PW.1 was present, but there was no representation for the defendant till 1.00 P.M and the matter was adjourned recording that adverse steps would follow; on 16.07.2015 PW.1 was present, and the matter was adjourned on the ground that the mother of the counsel for the defendant was sick; on 28.07.2015 Pw.1 was absent; on 06.08.2015 PW.1 was present till 5.00 P.M, but the counsel for the defendant did not come forward to proceed with cross-examination of PW.1 and requested time; and, therefore, it

was constrained to close the cross-examination of PW.1.

The Court below further observed that the counsel for the defendant sought adjournments for cross-examination of PW.1 on one or other grounds, and was reluctant to appear before the Court to proceed with the Suit; on several adjournments PW.1 appeared before the Court and reported ready for cross-examination, but there was no representation from the defendant's side; the witness could not be made to suffer for the acts of the parties and their counsel; PW.1 had appeared before the Court for cross-examination, and there was no representation on behalf of counsel for the defendant to cross-examine PW.1; and it appeared as if the defendant had intentionally and deliberately failed to cross-examine PW.1 on one or other ground with a view to drag on proceedings. The Court below dismissed the petition.

Before this Court, Sri G.Dhananjai, Learned Counsel for the petitioner, would submit a chronology of events in support of his submission that the matter was adjourned not merely on account of the absence of the counsel for the defendant, but also for the absence of the counsel for the plaintiff.

It is evident from the order of the Court below that PW.1 appeared in Court, and made himself available for cross-examination on five different dates i.e., on 06.04.2015, 15.04.2015, 07.07.2015, 16.07.2015 and 06.08.2015 and, despite several opportunities being given to the defendant and his counsel, he was not subjected to cross-examination. The order passed by the Court below does not suffer from any patent illegality necessitating interference in revision proceedings under Article 227 of the Constitution of India.

The Civil Revision Petition fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, J.

Date:08.07.2016.

CS