

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.1616 of 2016

ORDER:

In O.S.No.521 of 2003 on the file of V Additional Junior Civil Judge, Warangal, for the relief of permanent injunction against the defendants 1 to 4, of whom 1st defendant since died, 4th defendant impleaded as legal representative, on behalf of three plaintiffs, the husband of the 1st plaintiff it appears deposed as PW.1. It is later, the 3rd plaintiff wants to come to the witness box as PW.2 and filed chief examination affidavit and while receiving the same as evidence in chief of PW.2 by the Court (that of 3rd plaintiff), defendant raised the objection saying there is no permission required under Order XVIII Rule 3-A obtained, which says, where a party himself wishes to appear as a witness, he shall so appear before any other witness on his behalf has been examined, unless the Court for reasons to be recorded, permit him to appear as his own witness at a later stage.

2. A reading of the provision says any party to appear before a witness on behalf of party to be examined must come to the witness box first or to obtain permission of the Court and once he cannot. However, once discretion of the Court is provided it is not stated Court cannot exercise the

discretion even at a later stage to sub-serve the ends of justice.

3. A perusal of the evidence on record no doubt shows PW.1-husband of the 1st plaintiff deposed on behalf of the plaintiffs in relation to the suit claim because it is the common claim of the plaintiffs to maintain the relief of injunction and not a compilation of the individual claims respectively even to say what is for 1st plaintiff deposed is confined to him through her husband and thereby there is no bar for the 2nd plaintiff. However, once the provision enables the Court to permit which could be even after witness coming to the witness box, as procedural law is handmaid and not mistress of justice and the lower Court once assigned reasons for the conclusion in the detailed order for this Court while sitting in revision within the limited scope, finds no any reason to reverse much less to set aside the impugned order.

4. Accordingly, the Civil Revision Petition is disposed of.
No order as to costs.

5. Miscellaneous petitions, pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:17.09.2016
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