

**THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR**

**CIVIL REVISION PETITION NO.3261 of 2016**

**ORDER**

Assailing the order dated 24.03.2016 passed in I.A.No.125 of 2015 in O.S.No.31 of 2007 by the VII Additional District Judge, Madanapalle, whereby the application filed by the petitioner under Sections 151, 141 and 94 (e) of the Code of Civil Procedure seeking to recall the order dated 27.07.2015 in O.S.No.31/2007 closing the evidence on the side of D.2 and thereby to enable the defendant No.2 to contest the matter was dismissed, present revision is preferred by defendant No.2.

Heard. Perused the material on record.

A perusal of the material on record shows that the present I.A. came to be filed by D.2 seeking to recall the order dated 27.07.2015 passed in O.S.No.31/2007 whereby the learned trial Judge closed the evidence on the side of D.2 and posted the matter for arguments on 04.08.2015.

It is pertinent to extract the relevant portion of the impugned order, which is as follows, for better adjudication of the case:

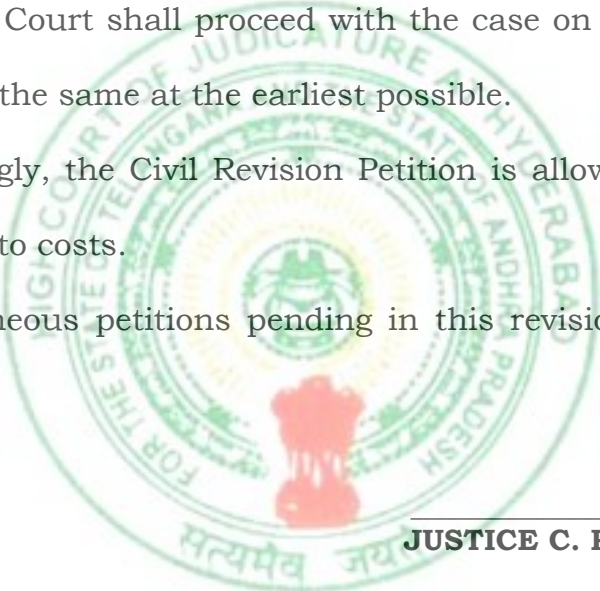
“ As could be seen from the record, both sides evidence was closed and the matter is coming for arguments and the matter is ripen for disposal. At this stage, the petitioner came with this instant petition only to drag on the proceedings and to stall the disposal of the case. This is the case of the year 2007. The petitioner cannot compel the plaintiff to adduce the evidence as per his wish and desire and the petitioner is not entitled to recall PW1 on that aspect. As per the averments of the affidavit of the petitioner/D2, it is silent as to what are the documents basing upon which the petitioner is intending to cross-examine P.W1 and the petitioner is at liberty to get those alleged documents marked through petitioner herself. Instead of that the present petition is filed only to

protract the matter and to cause inconvenience or loss to the P.W1. There are no any bonafides in the petition to allow this petition.....”

A reading of the above extracted portion of the impugned order reveals that the Court below proceeded with the I.A. as if the petitioner-D.2 intended to cross-examine P.W.1 and mark certain documents through him whereas the impugned application filed by the petitioner-D.2 is only to examine herself. In view of the same, the order under challenge is set aside. Consequently, the trial Court shall permit the petitioner to adduce evidence. Since the case is of the year 2007, the trial Court shall proceed with the case on day to day basis and dispose of the same at the earliest possible.

Accordingly, the Civil Revision Petition is allowed. There shall be no order as to costs.

Miscellaneous petitions pending in this revision, if any, stand closed.



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**JUSTICE C. PRAVEEN KUMAR**

12.09.2016  
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