

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

C.R.P No.4986 of 2016

ORDER:

The revision is preferred by petitioners/defendants No.2 to 7 against the order dated 01.09.2016 in I.A.No.436 of 2015 in O.S No.314 of 2014 on the file of the III Additional Junior Civil Judge, Guntur, FAC:II Additional Junior Civil Judge, Guntur.

Vide the aforesaid I.A., the plaintiffs/respondents No.2 to 4 herein sought to re-open their evidence and to receive the chief affidavit of PW.2.

The 1st defendant/5th respondent herein filed counter in the said I.A. and stated that PW.2 is the 3rd plaintiff and PW.1 is the father of PW.2. During the cross examination of PW.1, he categorically deposed except him none were having better knowledge about the property. After closure of evidence of petitioners/plaintiffs, the respondents No.2 to 4 herein filed the aforesaid I.A. to examine 3rd plaintiff only to fill up lacuna of evidence of PW.1 and to remove important admissions of PW.1. Even after several adjournments taken by the plaintiffs, they did not come forward to adduce evidence. But after closure of their evidence, when case was coming for evidence of defendants, the plaintiffs/respondents No.2 to 4 have filed the aforesaid I.A.

The learned court below recorded in its impugned order that while suit was coming for evidence of DW.1, 3rd plaintiff in the above suit has filed petition to re-open the evidence of plaintiff and to receive chief affidavit of PW.2. As per the record, it is an admitted fact that 1st plaintiff is the father of 3rd and 4th

plaintiffs and 2nd plaintiff is the wife of 1st plaintiff. Thus plaintiffs filed suit for permanent injunction.

Section 135 of Indian Evidence Act dealt with the order of examination of witnesses.

In a Civil Procedure Code, there is no specific provision indicating what is the order and examination of witnesses when there are several plaintiffs. The respondents may not direct the petitioner, who has examined first and mere evidence of PW.1 that he knows better than any other plaintiffs in the suit about the schedule property. They may not preclude the 3rd plaintiff therein to adduce evidence, as he is one of the plaintiffs, who moved case against the respondent, as if schedule property belongs to him. Moreover, the respondent is having ample opportunity to cross-examine the petitioner to elicit the truth.

In view of the facts recorded above, I do not find any discrepancy in the order passed by the Court below and the same is liable to be dismissed.

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

Pending miscellaneous petitions, if any, shall stand dismissed.

JUSTICE SURESH KUMAR KAIT.

Date : 23-11-2016

Gvl

