

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

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C.R.P.NO.2604 OF 2016

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ORDER

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The 1st respondent herein who is the plaintiff filed suit in O.S.No.63/2012 on the file of Junior Civil Judge, Sathyavedu, seeking injunction restraining the defendants from interfering with the suit schedule property. As defendants failed to cross-examine P.W.1 in spite of giving several opportunities, evidence of P.W.1 was closed. To recall P.W.1 for cross-examination, the defendant No.1 filed I.A.No.114/2016 in O.S.No.63/2012 under Order 18, Rule 17 read with 151 CPC. By the impugned order dated 21.4.2016 the court below dismissed the said I.A. Aggrieved by the same, the present revision is filed.

2. From a perusal of the impugned order, it could be seen that the case of the petitioner is that as his counsel was unwell and not available, he could not cross-examine P.W.1. The court below rejected the request on the ground that though sufficient opportunities were given, the 1st defendant failed to avail the same.

3. The learned counsel for the petitioner submits that subsequently the evidence of P.Ws.2 and 3 is also complete and if the petitioner is not given opportunity to cross-examine P.W.1, much prejudice would be caused to him. Hence seeks an opportunity to cross-examine P.W.1.

4. Though notice is served, there is no representation for the respondents.

5. Having regard to the facts and circumstances and as the counsel engaged by the petitioner cross-examined P.Ws.2 and 3, I am inclined to given one final opportunity to the petitioner to cross-examine P.W.1.

6. In the result, the impugned order is set aside and I.A.No.114/2016 in O.S.No.63/2012 is allowed. The lower court shall fix a date for cross-examination of P.w.1, on which date, without any further notice, the petitioner shall cause cross-examination of P.W.1. It is made clear that in case the petitioner fails to avail the opportunity, he shall forfeit his right to cross-examine P.W.1.

7. The civil revision petition is accordingly allowed. No costs.

8. Miscellaneous petitions if any, shall stand closed.

AVS

05—08—2016