

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NOS.2241 AND 2261 OF 2016

COMMON ORDER

Heard Sri Sricharan Telaprolu, learned counsel for the petitioner, and Sri Kuncheam Maheswara Rao, learned standing counsel for the first respondent, in these two cases.

The first respondent filed O.S.No.750 of 2003 on the file of the learned Junior Civil Judge, West and South, Ranga Reddy District at L.B.Nagar, for recovery of a sum of Rs.24,276/- along with interest. The said suit was renumbered as O.S.No.48 of 2012 on the file of the learned Additional Senior Civil Judge-cum-XVI Metropolitan Magistrate, Kukatpally at Miyapur, Cyberabad, upon restoration. The said restoration was however subjected to challenge and it was upheld only in the year 2015.

Upon such restoration being upheld, it appears that P.W.2 was examined through evidence affidavit only on 29.01.2016. The matter was adjourned at the request of the learned counsel for the petitioner herein, the first defendant in the suit, to 12.02.2016. On the said date, as the Presiding Officer was on leave, the matter was adjourned to 18.02.2016 and again to 03.03.2016. On 03.03.2016, P.W.2 was present but the learned counsel for the petitioner/first defendant sought time and the same was granted on imposition of costs. The matter was accordingly adjourned to 10.03.2016. On the said date, though the learned counsel for both parties along with the witness were present during the call work, there was no representation for the petitioner/first defendant thereafter. The trial Court took note of the submission made on behalf of the first respondent/plaintiff that the suit pertained to the year 2003 and that the learned counsel for the first defendant was dragging on the matter only to harass the plaintiff and closed the evidence of the plaintiff.

The petitioner/first defendant thereupon filed I.A.Nos.214 and 215 of 2016 in the suit to reopen the plaintiff's evidence and to recall P.W.2

for cross-examination. By the common order dated 29.03.2016, which is the subject matter of these two revisions, the trial Court dismissed both I.As.

The understanding of the trial Court that the matter related to the year 2003 is factually incorrect as the suit was effectively restored only in the year 2015. The examination in chief of P.W.2, by way of an affidavit, was only in the month of January, 2016 and there was no delay worth mentioning on the part of the first defendant in cross-examining the said witness.

That being so, the trial Court erred in not allowing adequate opportunity to the petitioner/first defendant to cross-examine the said witness. The common order under revision is accordingly set aside. The trial Court shall permit further cross-examination of P.W.2. The first defendant shall however not seek adjournments in the matter on frivolous grounds and shall not hinder expeditious disposal of the suit.

The Civil Revision Petitions are accordingly allowed. Pending miscellaneous petitions in these cases shall stand closed. No order as to costs.

SANJAY KUMAR, J

3rd JUNE, 2016

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