

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NOS.  
3646, 3824, 3920 AND 3924 OF 2017

COMMON ORDER

M/s. Rajaram Enterprises, the petitioner in these four revision petitions, is the second defendant in O.S.Nos.591 of 2012 and 685 of 2013 on the file of the learned XIV Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar. It filed petitions in both the suits requesting the Court to reopen the plaintiff's evidence and to recall P.W.2 in both the suits for further cross-examination. By separate orders dated 28.04.2017, the trial Court dismissed all the I.As.

C.R.P.No.3646 of 2017 relates to dismissal of I.A.No.320 of 2017 in O.S.No.685 of 2013 filed under Section 151 CPC to reopen the plaintiff's evidence. C.R.P.No.3924 of 2017 relates to dismissal of I.A.No.321 of 2017 in O.S.No.685 of 2013 filed under Order 18 Rule 17 CPC to recall P.W.2. C.R.P.No.3920 of 2017 pertains to dismissal of I.A.No.319 of 2017 in O.S.No.591 of 2012 filed under Section 151 CPC to reopen the plaintiff's evidence, while C.R.P.No.3824 of 2017 relates to dismissal of I.A.No.318 of 2017 in O.S.No.591 of 2012 filed under Order 18 Rule 17 CPC to recall P.W.2.

Heard Sri P.Krishna Mohan, learned counsel for the petitioner, the second defendant in both the suits, and Smt. A. Chaya Devi, learned counsel representing Sri J.Narayana Swamy, learned counsel for the first respondent, the plaintiff in both the suits. The other defendants in the suit, who are arrayed as respondents in the civil revision petitions, are shown as not necessary parties.

Parties shall hereinafter be referred to as arrayed in the suits.

The ground taken by the second defendant for seeking reopening of the plaintiff's evidence and for recall of P.W.2 was that the said witness was not properly cross-examined by its counsel as he was held up at the High Court. Further, the deponent, being the Managing Partner of the second defendant firm, fell down and grievously hurt his back, whereupon he was advised bed rest for two and a half months, and he could not contact his counsel.

The plaintiff filed counters contesting the I.As. Therein, she stated that her son, being her GPA Holder, filed his affidavit in lieu of chief-

examination as P.W.2 on 14.03.2016. He was then examined and marked Exs.A.1 to A25 in evidence on 16.03.2016. He was cross-examined by the counsel for the first defendant, and the second defendant adopted the same. Though the trial Court granted an opportunity to the second defendant to further cross-examine P.W.2, adjournments were taken but no cross-examination was done. The suit was posted for further evidence on the plaintiff's side and at that stage, she filed a Memo reserving the right to adduce rebuttal evidence. Her evidence was thereupon closed and the matter was adjourned for the defendants' side evidence on 24.01.2017. However, as the second defendant did not choose to adduce any evidence despite three adjournments being granted, the trial Court posted the matter for arguments on 08.03.2017 and thereafter, on 16.03.2017. At that stage, the present petitions were filed.

Upon considering the rival contentions and pleadings, the trial Court recorded, in its reasoned orders passed in I.A.No.320 of 2017 in O.S.No.685 of 2013 and I.A.No.319 of 2017 in O.S.No.591 of 2012, that after marking of documents in November, 2016, through the plaintiff's witness, the matters were adjourned for cross-examination of the said witness, but on that date there was no representation on behalf of the defendants. The cases were then adjourned to 02.12.2016. As there was no representation on behalf of the defendants even then, the cross-examination of the witness was recorded as nil and the plaintiff's evidence was reported closed. Again, the matters were listed on 24.01.2017 and 08.03.2017, but there was no representation on behalf of the second defendant.

It was in these circumstances that the trial Court closed the evidence. As the second defendant failed to avail the many opportunities given to it to cross-examine P.W.2, the trial Court observed that there were no grounds to allow the petitions and accordingly dismissed the I.As. Pursuant to these orders, the other I.As. also came to be dismissed.

Though Sri P.Krishna Mohan, learned counsel, would contend that the trial Court also closed the evidence of the second defendant and that this aspect of the matter is clear from the concluding part of the reasoned orders, where the trial Court referred to the fact that the second defendant did not avail the ample opportunity given by the Court to cross-examine P.W.2 and also to adduce evidence on its behalf, this Court is of the opinion that the issue of closure of the defendants' evidence does not fall for consideration in these revisions. The subject I.As. were filed only in relation

to reopening of the plaintiff's evidence and for recall of P.W.2 in the two suits. In so far as these aspects are concerned, the trial Court clearly recorded the sequence of events which demonstrates in no uncertain terms that the second defendant showed no interest in cross-examining P.W.2 despite the many opportunities afforded to it. It is not open to a party to procrastinate and thereafter seek to turn back the clock at its own convenience. This Court therefore finds no error in the orders under revision.

The civil revision petitions are devoid of merit and are accordingly dismissed. Pending miscellaneous petitions in all the cases shall also stand dismissed. No order as to costs.

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SANJAY KUMAR, J

30<sup>th</sup> NOVEMBER, 2017

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