

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 5831 of 2016

ORDER:

1) Aggrieved by the order, dated 20.10.2016 passed in E.A.No.368 of 2016 in E.A.NO.281 of 2014 in E.P.No.52 of 2013 in O.S.No.411 of 2014 on the file of the Additional Senior Civil Judge, Tirupati, wherein an application filed under Order XVIII Rule 17 and Section 151 of C.P.C. to recall RW.1 was dismissed, the present Civil Revision Petition is filed.

2) The averments in the affidavit filed in support of the petition would show that the case was posted to 22.09.2016 for cross examination of RW.1 (D.Hr.). On that day, the matter was called at 11.00 a.m. but as the counsel for the petitioner was engaged in another Court, he rushed to the said Court to bring his counsel. By the time he returned, the Court closed the evidence of RW.1. Immediately an application came to be filed seeking to recall RW.1 as the petitioner has got every chance of success in the matter. A counter came to be filed opposing the same. After considering the rival submissions made, the trial Court dismissed the said petition. Challenging the same, the present Civil Revision Petition came to be filed.

3) A perusal of the material on record would show that on the date when the matter was posted for cross examination of RW.1, though the party was present in the Court, the counsel was

engaged elsewhere and was not present in the said Court hall. The party went out to bring the counsel but meantime the matter was called and the evidence was closed. Immediately on the same day the present petition came to be filed seeking recall of RW.1 for cross examination, which was dismissed. It is to be noted that the cross-examination of RW.1 is very much essential for a just decision of the case. Since the evidence came to be closed due to the absence of the counsel and the application for recall of PW.1 has been filed immediately on the same day, this Court is of the view that ends of justice would be met, if an opportunity is given to the petitioner to cross-examine RW.1.

4) Accordingly, the Civil Revision Petition is allowed, directing RW.1 to be present before the trial Court on 28.02.2017, in which even the counsel for the petitioner shall cross examine her on the same day.

5) Miscellaneous Petitions, if any, pending in this Civil Revision Petition, shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

20.02.2017
gkv

