

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.5293 of 2017

ORDER:

Heard the learned counsel for the petitioner.

2. This Civil Revision Petition is filed challenging the order dt.08-09-2017 in I.A.No.15 of 2017 in O.S.No.204 of 2008 of the I Additional Judicial First Class Magistrate, Tadepalligudem.

3. The petitioner is plaintiff in the said suit filed for partition of plaint schedule property.

4. After the trial was concluded and after the counsel for the petitioner submitted arguments, the petitioner filed I.A.No.15 of 2017 stating that certain material questions were not put to D.W.1 at the time when D.W.1 was cross examined, and so the suit is to be reopened and the said witness is to be recalled to enable the petitioner to put those questions to D.W.1.

5. This application was opposed by the respondent who contended that D.W.1 was cross examined on 20-01-2017 and evidence of D.W.1 was closed on 08-08-2017. Thereafter, matter was posted for arguments, that arguments on both sides were heard and the matter was coming up for further arguments of the petitioner, and at that stage, this application had been filed.

6. The Court below dismissed the I.A.No.15 of 2017 stating that after the closure of the trial and after the learned counsel for the

petitioner submitted arguments, this application has been filed; it is not even mentioned what material questions on which aspect the petitioner intends to cross examine D.W.1 again; and D.W.1 was cross examined at length by the learned counsel for the petitioner and no case is made out for allowing the application and it had been filed only to drag on the proceedings.

7. Assailing the same, this Civil Revision Petition is filed.

8. Though the learned counsel for the petitioner contended that the petitioner is a minor and his interests would be jeopardized if the application is not allowed, the fact remains that the suit is of the year 2008 and is coming up for final arguments in September 2017. There was ample time for the counsel appearing for the petitioner to prepare for cross examination of D.W.1 since affidavit in lieu of chief examination of D.W.1 was filed in October 2015 and D.W.1 was cross examined on 20-01-2017 and the evidence of D.W.1 was closed only on 08-08-2017. During this period from October 2015 to 08-08-2017, petitioner's counsel had ample time to prepare appropriate questions to D.W.1. He cannot now contend that the evidence of D.W.1 should be reopened and further opportunity to cross examine D.W.1 should be granted after the arguments in the case had commenced.

9. The Court below has rightly dismissed the said application and I see no reason to interfere with the said reason.

10. Accordingly, the Civil Revision Petition is dismissed at the admission stage. No costs.

11. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 13-10-2017

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