

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.5754 of 2016

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India challenging the order dated 30.8.2016 in I.A.No.598 of 2016 in O.S.No.619 of 2012 on the file of the Court of XIII Additional Chief Judge (Fast Track Court), City Civil Court, Hyderabad.

2. Heard the learned counsel for the petitioner and the learned counsel for respondent Nos.1 to 3.

3. A perusal of the record reveals that the respondent Nos.1 to 3, who are plaintiff Nos.1 to 3, filed O.S. No.619 of 2012 against the respondent Nos.4 to 6 and petitioner herein, who are defendant Nos.1 to 4 respectively, for partition of suit schedule property. During the pendency of the suit, Advocate Commissioner was appointed to record the evidence of P.W.1. For one reason or the other, the petitioner herein did not choose to cross-examine P.W.1. The trial court closed the plaintiffs' side evidence. The petitioner filed I.A. No.598 of 2016 for the purpose of recalling the P.W.1 and the same was dismissed.

4. Today, this Court allowed CRP No.5763 of 2016 reopening the plaintiffs' side evidence. The very purpose of cross-examination is to elicit the truth. Even if the petition is allowed, the same may not cause any prejudice to the rights

of respondent Nos.1 to 3. If the petition is not allowed, it may not possible for the petitioner to ventilate his legitimate and legal grievance.

5. A perusal of the record further reveals that the petitioners and respondents belong to same family. The only apprehension of learned counsel for the respondent Nos.1 to 3 is that taking advantage of allowing of this petition, the petitioner may drag on the matter.

6. Having regard to the facts and circumstance of the case, the petition is allowed, setting aside the order dated 30.8.2016 in I.A.No.598 of 2016 in O.S.No.619 of 2012 on the file of the Court of XIII Additional Chief Judge (Fast Track Court), City Civil Court, Hyderabad. Consequently, I.A. No.598 of 2016 is allowed, recalling P.W.1 for the purpose of cross-examination by the petitioner-defendant No.4. The petitioner shall bear the expenses of the Advocate Commissioner in connection with cross-examination of P.W.1. The petitioner shall also cooperate with the trial court for disposal of the matter, without seeking unnecessary adjournments. No costs. Miscellaneous petitions, if any pending in this revision petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 19.1.2017.

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