

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.4371 OF 2017

O R D E R

This civil revision petition under Article 227 of the Constitution arises out of the order dated 22.06.2017 passed by the learned III Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar, in I.A.No.468 of 2017 in O.S.No.336 of 2008. The said I.A. was filed by the defendants in the suit under Order 18 Rule 17 CPC seeking recall of P.W.1 for further cross-examination. By the order under revision, the trial Court dismissed the I.A. Aggrieved thereby, the defendants are before this Court.

Heard Sri Pawan Kumar Agarwal, learned counsel the petitioners/defendants, and Sri Vikhar Ahmed, learned counsel on caveat for the respondents/plaintiffs.

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

O.S.No.336 of 2008 was filed for a declaration that the plaintiffs were the absolute owners of the suit schedule property and for a perpetual injunction restraining the defendants from interfering with their possession of or dispossessing them from the suit schedule property. The suit schedule property comprised an extent of Ac.40.09 guntas in various survey numbers of Kacharam Village, Shamshabad Mandal, Ranga Reddy District.

I.A.No.468 of 2017 was filed in the suit by the defendants under Order 18 Rule 17 CPC seeking recall of P.W.1 for the purpose of further cross-examination. In the affidavit filed in support thereof, the defendants stated that plaintiff No.5 was examined as P.W.1 and after closure of the plaintiffs' evidence, the defendants' evidence was also completed. While so, the defendants claimed that they came to

know about certain crucial facts regarding Ex.P1, on the basis of which the plaintiffs were claiming rights over the suit property. They further claimed that they came to know of certain other crucial facts which would throw light on the merits of the case. According to them, these facts were not within their knowledge at the time of cross-examination of P.W.1 earlier and therefore, P.W.1 could not be cross-examined as regards the same. They therefore prayed that P.W.1 be recalled to enable his further cross-examination so as to elicit the truth with respect to Ex.P1 and also other crucial facts.

Perusal of the order under revision reflects that P.W.1 was examined on 26.07.2013 and D.W.1's evidence was completed by 21.03.2014. The documents adduced in evidence by the parties were marked as 'A' series and 'B' series respectively. Therefore, there was no document such as Ex.P1.

Learned counsel for the parties state that one of the documents adduced in evidence was referred to a Handwriting/Finger Print Expert under Section 45 of the Indian Evidence Act, 1872 at the behest of the plaintiffs. The said Expert was also examined and his evidence was closed on 03.04.2017. The report of this Expert was submitted to the Court as long back as in September, 2016.

Sri Pawan Kumar Agarwal, learned counsel, would contend that it is in the context of this Expert's report that P.W.1 has to be subjected to further cross-examination. Learned counsel however concedes fairly that no such mention was made in the affidavit filed in support of the I.A. He also has no explanation to offer for the delay on the part of the defendants, as it is an admitted fact that the report in question was filed in Court in September, 2016, whereas the

subject I.A. was filed only in June, 2017. It is also an admitted fact that the suit is posted for arguments.

Given these facts, this Court is in complete agreement with the trial Court that the application filed by the defendants was utterly lacking in *bonafides*. This Court therefore finds no reason to interfere with the order under revision, which is accordingly confirmed.

The civil revision petition is devoid of merit and is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

15th SEPTEMBER, 2017

Svv

SANJAY KUMAR, J

