

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION Nos.3343 and 3344 of 2017

COMMON ORDER:

These Civil Revision Petitions are filed by the petitioner/defendant under Article 227 of Constitution of India, challenging the common order, dated 16-06-2017 passed in I.A.Nos.785 and 784 of 2017 in O.S.No.750 of 2015 by the XI Additional Chief Judge, City Civil Court, Hyderabad, declining to reopen and recall PW-1 for further cross examination.

The respondent opposed the petition on various grounds and contended that the trial Court upon hearing the arguments of both the counsel dismissed those two petitions.

Aggrieved by the common order these two revisions are filed on various grounds. The main ground is that there was no communication between the counsel and the petitioner, thereby the petitioner did not give proper instructions to the counsel for cross-examination of PW-1. But the respondent contended that for 2½ years the witness was not cross-examined on one pretext or the other by the counsel on record, thereby having no other alternative the trial Court closed cross-examination of PW1 as 'NIL' and at this stage the petition cannot be allowed since the petitioner/defendant herself is guilty of latches.

The suit is filed for eviction and arrears of rent after terminating the tenancy. It is evident from the record that learned counsel for the petitioner did not cross-examine despite sufficient opportunity to cross-examine PW-1 and dragged the matter sufficiently for 2½ years. But for the mistake of counsel the party shall not be put to loss, therefore, I find that it is a fit case to afford one opportunity to the petitioner herein by directing the trial Court to fix a specific date for completion of cross-examination of PW1 and permit the petitioner counsel to cross-examine the witness. In the event of failure to cross-examine the witness on the date fixed by the Court the trial Court may record cross-examine of PW-1 as “NIL” and the petitioner is not entitled to claim any further opportunity to cross-examine PW-1 on any ground. Hence, the petitions are allowed reopening the evidence of PW-1 and permitting cross-examination by learned counsel for the petitioner/defendant on the date fixed subject to the condition referred above. The trial Court shall fix any date within ten (10) days from today.

Accordingly, the Civil Revision Petitions are disposed of. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in these Civil Revision Petitions shall stand closed.

JUSTICE M. SATYANARAYANA MURTHY

July 14, 2017

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