

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

CIVIL REVISION PETITION NO.2743 OF 2017

DATED:23-06-2017

Between:

K. Appa Rao

... Petitioner

And

G. Surya Rao
and others

... Respondents

COUNSEL FOR THE PETITIONER: Mr. Y. Raveendra Kumar

COUNSEL FOR THE RESPONDENTS: -



THE COURT MADE THE FOLLOWING:

ORDER:

Defendant No.1 in O.S. No.361 of 2011 on the file of the Principal District Judge, Visakhapatnam, filed this revision petition feeling aggrieved by order dt.03.2.2017 in I.A. No.2713 of 2016 filed in the said suit.

Respondent No.1 has filed the aforementioned suit for declaration of title and recovery of possession of the suit schedule property. He has filed the aforementioned I.A. for recalling of the petitioner, who gave evidence as D.W.1, for further cross-examination. This application having been allowed by the lower Court, respondent No.1 has filed this revision petition.

The learned counsel for the petitioner submitted that having held that respondent No.1 has not disclosed the relevant aspects on which the petitioner was sought to be recalled for further examination, the lower Court has committed a serious error in allowing the I.A.

Though I find force in the submission of the learned counsel, yet, I am not inclined to interfere with the discretion exercised by the lower Court, as, the petitioner failed to show that the wrong exercise of discretion by the lower Court resulted in failure of justice. Ordinarily, the witness is not recalled for further cross-examination, unless a strong case is made out. The learned District Judge while holding that the affidavit does not disclose the relevant aspects, nevertheless allowed the application by referring to the submission of the counsel for respondent No.1 across the Bar. I would rather have liked the I.A. to be dismissed, as the lower Court ought not to have exercised its discretion merely based on the submission made by the counsel without being supported by pleadings. However, the learned counsel for the petitioner failed to convince this Court that by wrong exercise of the discretion by the lower

Court, interests of his client have in any manner suffered. After all, he is a defendant in the suit and the delay, if any, caused on account of recalling him for further cross-examination does not affect his interest. Even on merits also, it is not the pleaded case of the petitioner that his recalling will have any affect on the result of the suit.

In the above facts and circumstances of the case, I am not inclined to interfere with the order of the lower Court. Hence, the civil revision petition is dismissed.

As a sequel to dismissal of the civil revision petition, C.R.P.M.P. No.3620 of 2017 shall stand disposed of as infructuous.

23-06-2017

bnr



C.V. NAGARJUNA REDDY, J