

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No. 3487 of 2017

ORDER:

This Civil Revision Petition is filed against the order, dated 28.03.2017 passed by the learned IV Additional District & Sessions Judge (FTC), Ananthapuramu, dismissing I.A.No.116 of 2017 in O.S.No.77 of 2011, filed by the petitioner-defendant No.1 under Order XVIII Rule 17 C.P.C., to recall P.W.1 for further cross-examination.

The respondent-plaintiff filed the suit for partition and separate possession of the suit schedule properties. In the said suit, the petitioner-defendant No.1 filed I.A.No.116 of 2017. Her case is that for various reasons, she could not give instructions to her Advocate to carry out further cross-examination of P.W.1 and that the trial Court ought to have taken lenient view and allow the petitioner to cross-examine P.W.1.

Learned counsel for the petitioner-defendant No.1 submits that cross-examination of P.W.1 is not yet closed, for, she was not cross-examined on behalf of defendant Nos.3 and 6 to 10. Hence, he submits that the petitioner may be given one more opportunity to further cross-examine P.W.1.

Learned counsel appearing for respondent No.1-plaintiff submits that his client has no objection for allowing the petition.

Having considered the respective submissions, notwithstanding the fact that respondent No.1-plaintiff has no

objection, and considering the fact that the parties are close relatives and the trial Court itself had mentioned in its order that adjournments were sought on the ground of compromise between the parties, if one more opportunity is given to the petitioner, no prejudice would be caused to respondent No.1. However, as it is evident that the petitioner failed to avail the ample opportunity given to her by the Court below to complete the cross-examination of P.W.1, this Court is inclined to allow her to do so, on certain conditions.

Therefore, the Civil Revision Petition is allowed by setting aside the order under revision and I.A.No.116 of 2017 is allowed subject to the petitioner paying costs of Rs.10,000/- (Rupees Ten Thousand Only) to the Legal Services Authority, Ananthapuramu. On such payment, the trial Court shall allow the petitioner to cross-examine P.W.1 on 08.12.2017, on which date the suit is posted, or any other date that may be fixed by it.

Miscellaneous petitions, if any pending shall stand disposed of.

CHALLA KODANDA RAM, J

Dt:30.11.2017

Note: Issue c.c. forthwith.
(B/o)
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