

THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

C.R.P.Nos.2601 and 2693 of 2017

COMMON ORDER

Since both these revisions arise out of the interlocutory orders passed in O.S.No.43 of 2002 on the file of Junior Civil Judge, Tekkali, Srikakulam District, they are being taken up for disposal by this common order.

2. In the aforesaid suit, the respondents/plaintiffs filed I.A.Nos.36 and 37 of 2017 to reopen the matter and to recall D.Ws.5 to 7 for cross-examination. By orders dated 31.03.2017, the trial Court allowed both the applications. Challenging the same, the petitioner/defendant filed the present revisions.

3. The revision petitioner is defendant and respondents are plaintiffs. The suit is filed for declaration and recovery of possession. The suit had a chequered history and is pending for more than 15 years. The reasons there for are not germane for the purpose of present revisions. Suffice it to say that after completion of evidence of plaintiff, the defendants entered into witness box and after taking favourable orders from the trial Court as well as this Court, the trial Court summoned the witnesses on behalf of defendants and examined them as DWs.2 to 7. When D.W.5 was in the witness box, it appears that certain documents were produced, but marking of those documents was objected to by the plaintiff. The plaintiff instead of cross-examining D.Ws.5 to 7 took adjournment and preferred C.R.P.No.6208 of 2016 against the orders passed on

memo dated 16.11.2016 and the same was dismissed. Thereafter, the plaintiffs filed I.A.Nos.36 and 37 of 2017 to reopen the matter and to recall D.Ws.5 to 7 for cross-examination. This was opposed by the defendant by filing counters. By the orders impugned, the trial Court allowed the said applications on condition of plaintiffs paying costs of Rs.1500/- to the Mandal Legal Services Authority.

4. Learned counsel for revision petitioner/defendant submits that though the suit is pending for more than 15 years and in spite of categorical direction issued by this Court in C.R.P.No.889 of 2016 dated 03.06.2016 to the trial Court to take up the suit on day to day basis, the plaintiffs are protracting the litigation by filing these petitions and the Court below erred in allowing the same.

5. I have perused the entire material on record. During trial, D.Ws.2 to 4 were examined on behalf of defendants. In pursuance of the orders of this Court and on being summoned, when D.W.5 was examined and produced the documents, the plaintiffs objected about marking of those documents and after the said objection was overruled by the trial Court vide memo dated 16.11.2016, D.Ws.5 to 7 were produced and documents were marked through the evidence of D.W.5. When the matter was adjourned for cross-examination of DW.5, the plaintiffs preferred a revision challenging the said memo and the same was dismissed. Subsequently, the plaintiffs filed the present applications to recall D.Ws.5 to 7 for cross-examination. The trial Court allowed the said petitions to recall the evidence of D.Ws.5 to 7 with a direction to the plaintiffs to cross-examine those

witnesses without fail for effective and complete determination of the dispute between the parties. When the application is filed to recall the witnesses for cross-examination, the same has to be considered favorably so as to complete the evidence of witnesses. The trial Court has taken into consideration all these aspects and allowed the applications by putting the respondents/plaintiffs on terms. Therefore, the orders impugned cannot be said to be erroneous warranting interference by this Court. There are no merits in both these revisions.

6. Accordingly, both the Civil Revision Petitions are dismissed. However, the trial Court is directed to take appropriate steps to call upon the respondents/plaintiffs to deposit the costs for summoning the witnesses proposed to be cross-examined and also deposit the TA & DA for the said witnesses. It is needless to say that whenever D.Ws.5 to 7 appeared before the Court, the plaintiffs should complete their cross-examination on the same day. No order as to costs. Miscellaneous petitions, if any, pending in both the revisions shall stand dismissed.

22nd June, 2017

sj

M.S.K.JAISWAL, J