

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CIVIL REVISION PETITION Nos.4035 & 4056 of 2017

COMMON ORDER:

Civil Revision Petition Nos. 4035 & 4056 of 2017 are filed by the plaintiff aggrieved by the order dated 18.7.2017 in I.A.Nos. 314 & 313 of 2017 respectively in O.S.No. 530 of 2005 on the file of Junior Civil Judge, Railway Kodur, Kadapa District.

2. I.A.No. 314 of 2017 was filed to set aside the order dated 28.6.2017 eschewing the evidence of PW-2, whereas I.A.No. 313 of 2017 was filed to reopen the evidence on behalf of the plaintiff. Both the petitions were dismissed by the trial Court. Hence, the instant Civil Revision Petitions.

3. Notice on respondent returned un-served.

4. Be that as it may, this Court is of the considered view that the Civil Revision Petitions can be disposed of at the admission stage without the necessity of ordering further notice on respondent having regard to the nature of the orders impugned.

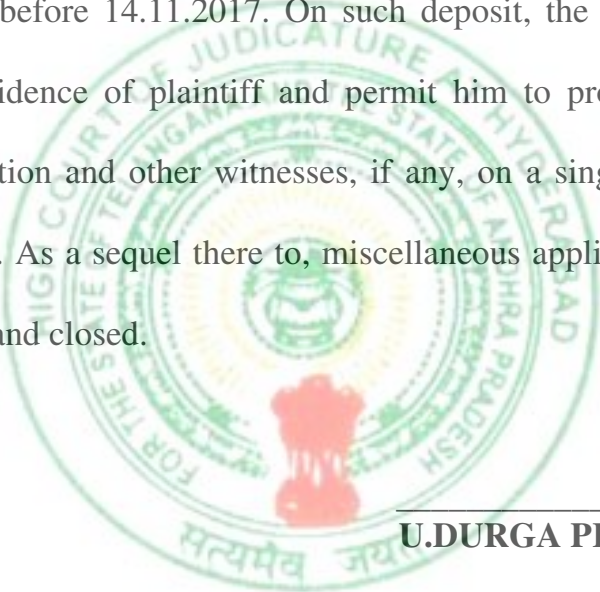
5. As can be seen from the impugned orders, on a number of occasions the plaintiff in a suit for specific performance filed by him before the trial Court could not get ready for adducing further evidence

and initially his further evidence was closed by the Court. At that stage, the plaintiff filed I.A.No. 301 of 2017 to reopen the matter to adduce further evidence and to file chief affidavit of PW-2. The said petition was allowed on 9.6.2017 on condition of the plaintiff producing PW-2 before the Advocate Commissioner for cross examination of other side and also marking of documents of plaintiff. However, the plaintiff did not get ready to produce his witness. Ultimately, the Court eschewed the evidence of PW-2 and proceeded the matter for the evidence of defendant's side. Thereafter, the plaintiff filed I.A.Nos. 313 of 2017 and 314 of 2017 for re-opening of the matter and to set aside the eschew order. The trial Court dismissed these petitions and hence, the instant Civil Revision Petitions.

6. Learned counsel for petitioner would submit that in an unavoidable circumstances, the plaintiff could not produce his witness i.e., PW-2 for cross-examination on the due date and that the valuable rights of the plaintiff in the suit are at stake and hence, one more opportunity be given to him and the plaintiff is ready to abide by any conditions imposed.

7. Having regard to the above submission, this Court is of the considered view that an opportunity should be given to the plaintiff, of course, by imposing the terms.

8. In the result, Civil Revision Petitions are allowed by setting aside the impugned order dated 18.7.2017 in I.A.Nos. 313 & 314 of 2017. Consequently, I.A.Nos. 313 & 314 of 2017 are allowed on condition of the petitioner/plaintiff depositing costs of Rs. 2,000/- (Rupees Two Thousand Only) with the Mandal Legal Services Committee, Railway Kodur, on or before 14.11.2017. On such deposit, the trial Court shall reopen the evidence of plaintiff and permit him to produce PW-2 for cross examination and other witnesses, if any, on a single day fixed by the trial Court. As a sequel there to, miscellaneous applications, pending if any, shall stand closed.



U.DURGA PRASAD RAO, J

Date: 02.11.2017
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