

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND
THE STATE OF ANDHRA PRADESH**

C.R.P.No.6144 of 2017

Between:

Smt.Gollu Satyavathi W/o.late Gollu Surya Rao,
Hindu, Age:59 years, R/o.D.No.15/14/1,
Near Police Station, Prakashnagar,
Pendurthy, Visakhapatnam and 4 others ... Petitioners

And

Sri Kilaparthi Apparao, S/o.Simhachalam,
Hindu Aged: 77 years,
R/o.D.No.15/14/2, Prakashnagar,
Pendurthy, Visakhapatnam and 6 others ... Respondents

JUDGMENT PRONOUNCED ON 17.11.2017

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

1. Whether Reporters of Local newspapers may be allowed to see the Judgments?
2. Whether the copies of judgment may be marked to Law Reporters/Journals
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment?

(C.V.NAGARJUNA REDDY,J)

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY*+
C.R.P.No.6144 of 2017**

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Vs.

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Hindu Aged: 77 years,
R/o.D.No.15/14/2, Prakashnagar,
Pendurthy, Visakhapatnam and 6 others ... Respondents

!Counsel for the Petitioner : Mr.Kuriti Bhaskar Rao

Counsel for the Respondent: ----

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>Head Note:

?Cases referred:

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

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Counsel for the Petitioner : Mr.Kuriti Bhaskar Rao

Counsel for the Respondent: -----

The Court made the following:

Order:

This civil revision petition is filed against order dated 10.10.2017 in I.A.No.1940 of 2017 in O.S.No.361 of 2011 on the file of the Principal District Judge, Visakhapatnam. The aforementioned suit was originally filed by one Gollu Surya Rao, husband of petitioner No.1 and father of petitioners No.2 to 5, for declaration of title and recovery of possession of the suit schedule property. Before the death of the original plaintiff, he examined himself as PW-1. After closing his side evidence, the evidence on the defence side was commenced. After DW-1's evidence was closed, on the application filed by the original plaintiff, the former was recalled and further cross examined. On 23.02.2017, the original plaintiff has died. The petitioners were brought on record as legal representatives of the deceased plaintiff in June, 2017. When the case was coming up for arguments after closing of trial, the petitioners filed an I.A. for re-opening the evidence for the purpose of adducing further evidence. This application was dismissed by the lower Court with the observations that the proposed witnesses were not witnesses to any documents, that, there is no reference about their knowledge about the suit transaction, either in the pleadings or in the evidence of PW-1 and that, having reported no further evidence about 2 ½ years ago and having recalled DW-1 for further cross examination, during the life time of the original plaintiff, it is not permissible for the

petitioners to seek reopening of the suit. The Court also observed that under Order XVIII C.P.C., the parties have to take every care to produce all the witnesses and that, having failed to produce the witnesses before the evidence on the plaintiff's side was closed, the present application filed belatedly, cannot be allowed.

2. Under Order XVIII Rule 2, on the day fixed for hearing of the suit or on any other date to which the hearing is adjourned, the party having the right to begin, shall state its case and produce any evidence in support of the issues which he is bound to prove. It is implied from this provision that at the commencement of trial, the party has to be ready with his witnesses, so that their examination will go on till it is completed unhindered. It has now become a practice that the plaintiff or the defendant comes out with requests, much after closing their side's evidence, by pleading some reason or the other, for re-opening the evidence. Though fair amount of discretion is vested in the Courts to consider such requests, unless strong reasons are pleaded and the Court is satisfied with such reasons, it is not desirable to re-open the evidence, merely on the parties making such requests. It is needless to observe that the suits which are kept pending for years, would get further delayed if the Courts accept requests for re-opening of evidence, for the mere asking, without the party making out a strong case for such re-opening.

3. In the instant case, except for the reason that the original plaintiff has died and the petitioners have come on record later, they failed to assign any plausible reason to re-open the suit for examining the proposed PW-2 and 3. As rightly observed by the lower Court, either in the pleadings or in the evidence of PW-1, role of proposed PW-2 and 3 has not been referred to. Hence, in a suit filed for declaration of title, the evidence of the proposed witnesses may not have any relevance at all.

4. On a careful consideration of the facts of the case and the reasons assigned by the Court below, I do not find any reason to interfere with the order under revision, in exercise of supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

5. The civil revision petition is accordingly dismissed. As a sequel to dismissal of civil revision petition, C.R.P.M.P.No.7935 of 2017 is dismissed as infructuous.

(C.V.Nagarjuna Reddy, J)

Date: 17th November, 2017

Note:

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(B/o.)

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