

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

CIVIL REVISION PETITION Nos.5467 & 5471 of 2017

COMMON ORDER:

Since these two Civil Revision Petitions arise out of one suit, and as they are inter-related, this Court deems it appropriate to dispose of these revisions by way of this common order.

Heard Sri K.Rajanna, learned counsel for the petitioners.

The defendants, in O.S.No.99 of 2008 on the file of the learned Senior Civil Judge, Adoni, Kurnool District, are the petitioners in these two revisions filed under Article 227 of the Constitution of India.

C.R.P.No.5467 of 2017 challenges the order, dated 03.10.2017, passed in I.A.No.750 of 2017, filed by the petitioners herein under Section 151 CPC to reopen the case for the purpose of recalling P.Ws.1 and 2 for cross-examination.

C.R.P.No.5471 of 2017 assails the order, dated 03.10.2017, passed by the said Court in I.A.No.751 of 2017, filed under Order XVIII Rule 17 CPC, praying the Court below to recall P.Ws.1 and 2 for cross-examination.

In the main suit, instituted in the year 2008, trial was completed initially on 17.12.2012 and arguments were also heard. Thereafter, the plaint was returned on 10.06.2012 and the plaintiff preferred C.M.A.No.2 of 2015 which was allowed by the appellate Court, directing the Court below to frame necessary issue in respect of valuation of suit and to give opportunity to both parties to lead evidence and decide the said fact in accordance with law.

Subsequently further evidence was adduced on behalf of the plaintiff and P.Ws.4 and 5 were examined.

When the matter was coming up for further evidence of the defendants, the present applications were filed. In the affidavits, filed in support of the present applications, it is stated that in the cross-examination of P.Ws.1 and 4 the questions with regard to the title of the schedule property and about pattadar pass book, which stood in the name of the first plaintiff, were not asked by oversight, as such, the cross-examination of the said witnesses would be very much necessary. It is evident from the order passed by the Court below that P.W.1 was cross-examined at length. It is very much obvious from a reading of the affidavit, filed in support of the applications, that the only reason assigned by the petitioners, is that by oversight certain questions could not be asked. In fact, at paragraph No.9 of the impugned order, the Court below referred to the judgment of this Court and the judgment of the Honourable Apex Court, wherein it was held that recall of any witness cannot be invoked to fill up the lacunae in the evidence of the witnesses. The reasons assigned by the petitioner herein are neither sustainable nor tenable. It is a settled law that unless the order impugned suffers from patent perversity and jurisdictional error, the invocation of jurisdiction of this Court, under Article 227 of the Constitution of India, is impermissible. This Court does not find any valid reason to meddle with the order passed by the Court below.

Accordingly, the Civil Revision Petitions are dismissed. As a sequel, the miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

10th November, 2017
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