

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

C.R.P.No.6921 of 2017

ORDER:

The petitioner, who is defendant in a suit for eviction, has come up with the above revision challenging an order of the trial Court refusing to recall PW.1 for further cross-examination.

2. Heard Mr. Narasimha Rao Gudiseva, learned counsel for the petitioner.

3. In the affidavit in support of the application for recalling PW.1 for further cross-examination, the petitioner indicated that he wanted to cross-examine PW.1 on the question of deposit of rent and other crucial aspects. Insofar as deposit of rent is concerned, PW.1 had already admitted that the petitioner has been depositing rents. Therefore, no further cross-examination could be made on this aspect.

4. Other crucial aspects of which the petitioner wanted to cross-examine PW.1, was not mentioned in the affidavit. It is contended by the learned counsel for the petitioner that the petitioner cannot disclose his mind in the affidavit and send an alert to the respondent/PW.1.

5. It may be true that the petitioner may have something up his sleeves which he does not want to disclose. But the problem is that the past conduct of the petitioner recorded by the trial Court in paragraph-6 of its order shows that the petitioner cannot seek any indulgence. The relevant portion of para-6 of the order of the trial Court is extracted as follows:

“It has to be verified by this court whether the petitioner has filed the petition for recall of PW.1 to clear any ambiguity or to fill up any omissions of latches on the part of petitioner. The power under Order XVIII Rule 17 of Civil Procedure Code is not intended to be used routinely mere for the asking. It has to be verified by this Court, whether the petitioner has placed any bonafide cause and that the

petitioner has to satisfy the court for non cross examination of the said witness on the previous occasion for valid and sufficient reasons to recall PW.1, then the petitioner will be entitled for the relief claimed. On perusal of record, the petitioner herein has filed petition in I.A. No.369/2017 along with I.A.No.370/2017 by filing few documents and the petitioner has failed to attend before this court, on that this court was pleased to dismissed the said petition. Subsequently, the petitioner has filed another petition in I.a.No.454/2017 to restore the dismissal order in I.A.No.369/2017 and the same was allowed. Subsequently, in spite of conditional orders, the petitioner/defendant herein failed to adduce further evidence on his side, the matter was posted for arguments. At the stage of arguments, the petitioner has filed petition for recall of PW.1.”

6. In view of the above, I see no reason to entertain the revision.

Hence the civil revision petition is dismissed. As a sequel, miscellaneous petitions pending in this revision, if any, shall stand closed. There shall be no order as to costs.

JUSTICE V. RAMASUBRAMANIAN

8th December, 2017
Js.



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