

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P. No.7377 OF 2017

ORDER:

The defendants in O.S. No.58 of 2005 on the file of Additional Senior Civil Judge at Karimnagar are the revision petitioners. The revision petitioners filed I.A. No. 664 of 2017 praying for reopening the suit and also enable the revision petitioners to adduce evidence. The trial Court through the order impugned in the civil revision petition granted the following relief:

“As per advocates Act when advocate is holding vakalath and files vakalath on behalf of parties it is his duty to appear before the Court on every date of hearing. Further, the provisions of C.P.C. also clear that on every date of hearing the party must be present. If they are not able to personally appear before the court they are represented by their advocate. The C.P.C. imposes duty on the parties as well as their advocate to represent the matter. The petitioner counsel has only relied on the provisions of civil rules of practice and stated the notice should be given to the petitioners before filing chief affidavit, they are forgetting the duty imposed on them to appear before the court on every date of hearing. If they are absent for one or two adjournments the matter would be different, the record shows since 2005 to October,2017 they did not appear before the court. They have forgotten their duty and they are not intended to contest the matter so that they kept quiet for all these days. It clearly appears that after adducing the evidence by the purchasers of petitioners herein, the petitioners herein come on record only with an intention to fill up the lacunas on the part of their purchasers. It clearly shows that at the time of arguments stage they appeared before the court and insisting the court to recall all the witnesses who are already examined. This court feels that the law is helpful to those who are vigilant and not to those who are asleep. The petitioners are in deep sleep for a period of 12 years and now as a matter of right they are dictating the terms to the court to recall all the witnesses. This

court feels that they have already wasted the valuable time of the court without appearing before the court. Recalling all the witnesses is nothing but wasting of this court's time and the wasting of time of witnesses also. Therefore, I am not inclined to recall the witnesses who are already examined. However, the petitioners should be given opportunity to adduce evidence therefore this petition is allowed only to adduce the evidence of petitioners.

In the result, this petition is allowed. The matter is re-opened for the evidence of D-1 and D-2. Further, this court is of opinion that the remaining witnesses who are already examined, shall not be recalled. Hence, the order. “

The revision petitioners now canvass for the prayer which is rejected by the learned trial judge. The counsel for petitioners contends that the trial Court having accepted the prayer of revision petitioners to adduce evidence ought to have allowed revision petitioners to examine the witnesses already examined in the suit, for no prejudice occasion to the contesting parties.

The contention is merely noted to be rejected. The trial Court exercised its discretion and jurisdiction either for accepting the prayer or refusing a portion of the relief. The reasons assigned by the trial Court are tenable and no illegality or irregularity has been pointed out. This Court in exercise of its supervisory jurisdiction under Article 227 of Constitution of India ought not to substitute its view where no exception to the reasoning of the trial Court is pointed out. This Court is not persuaded to admit the CRP and accordingly dismissed. No order as to costs.

Miscellaneous petitions pending, if any, stand closed.

S.V.BHATT, J

Date: 29.12.2017

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