

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No.923 OF 2018

ORDER:

The petitioner is the plaintiff in O.S.No.328 of 2011 on the file of the I Additional Senior Civil Judge, Nellore. The suit was filed for setting aside the decree and order, dated 26.08.2009, passed in R.C.No.16 of 2009 on the file of the Principal Junior Civil Judge, Nellore and for grant of permanent injunction. After completion of evidence of both parties, I.A.No.856 of 2017 was filed to reopen the matter for adducing further evidence. When the said application was dismissed on 19.01.2018, the present civil revision petition is filed.

The present application is filed by the plaintiff for recalling P.W.1 for the purpose of adducing further evidence and no reasons were shown in the affidavit filed in support of the application. A counter affidavit was filed by the respondent stating that when the matter is posted for arguments, the present application was filed. On considering the averments and counter averments, the trial Court dismissed the application observing as follows.

“This petition is filed at the stage of arguments. Suit is filed for permanent injunction. Petitioner wants to examine the witness who made endorsement in RCC. The proceedings in that case are no way relating to the present case and the suit is of the year 2011. The petitioner without cross-examining D.W.1 dragged the matter. Then this Court closed the cross-examination. Then she came up with a petition to recall the witness/D.W.1 for cross-examination, an opportunity was given to her, then D.W.1 was cross-examined by the petitioner. Now the petitioner came up with the present petition without any reasonable cause with an intention to drag the suit proceedings and to cause delay in disposal of the case. There are no suitable grounds to reopen the evidence at the stage of arguments. If really he is a crucial witness she could have filed this petition at the time of plaintiff's evidence. Without filing this petition at the time of plaintiff evidence, she filed this petition at the stage of arguments to stop the disposal of the case. There are no grounds to allow this petition.”

Admittedly, the application was filed after completion of the evidence and when the matter was posted for arguments. The plaintiff filed the present application for recalling P.W.1 and since the evidence was already completed and that too the matter is of the year 2011, it does not warrant any interference by this Court and the order passed by the trial Court is proper.

The civil revision petition is accordingly dismissed. Consequently, miscellaneous petitions, if any, pending, shall stand closed.

16.02.2018
pln

A.RAMALINGESWARA RAO, J

