

SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.1104 OF 2010

JUDGMENT:

Heard Sri Ravi Kondaveeti, learned counsel for the petitioner.

2. The present Civil Revision Petition is filed against the order and decree dated 28.01.2010 in C.M.A. No.5 of 2009 on the file of Senior Civil Judge, Avanigadda, whereby and whereunder the learned Senior Civil Judge allowed the Civil Miscellaneous Appeal and while setting aside the *ex parte* order passed in I.A. No.60 of 2007 in O.S. No.476 of 2004 on the file of Principal Junior Civil Judge, Avanigadda, directed the defendants to cross-examine P.Ws.1 to 3 whenever P.Ws.1 to 3 were present before the trial Court.

3. Going into the history, the suit was filed by the revision petitioner for recovery of Rs.47,500/-, which suit was registered as O.S.No.476 of 2004. Learned Principal Junior Civil Judge, Avanigadda, passed *ex parte* decree. Thereafter, when the defendants filed I.A. No.60 of 2007 for setting aside the *ex parte* decree, learned Principal Junior Civil Judge dismissed it. Aggrieved over the same, the defendants preferred C.M.A. No.5 of 2009, which was allowed by order dated 28.01.2010 with the aforesaid directions. The same is under challenge in the present Civil Revision Petition under Article 227 of the Constitution of India.

4. Sri Ravi Kondaveeti, learned counsel for the petitioner, again, asked for a day's adjournment to ascertain the status of the petition or suit, but, such a situation does not arise in the present case for the reason while setting aside *ex parte* decree direction was given to the defendants/appellants to cross-examine P.Ws.1 to 3. In fact, in any suit the rights of the parties are to be determined on merits, giving opportunity to both sides as rights or interest of the parties are involved irrespective of whether it is a suit relating to immoveable property or suit for recovery of money. That appears to be the reason, the lower Appellate Court did allow Civil Miscellaneous Appeal No.5 of 2009 and passed such order.

5. Certainly, the order does not suffer from any legal infirmity nor any irregularity crept in. There is no merit in the present Civil Revision Petition and, therefore, the same is dismissed. However, the defendants, who are the respondents herein, are directed to cross-examine P.Ws.1 to 3 within two (2) months from the date of receipt of a copy of the order. As the suit relates to the year 2004, both parties shall cooperate and P.Ws.1 to 3 are also directed to make themselves available for cross-examination on appointed day or dates that would be fixed by the learned Principal Junior Civil Judge, Avanigadda.

6. Accordingly, the present Civil Revision Petition is dismissed. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions if any pending in the Civil Revision Petition shall stand closed.

A.SHANKAR NARAYANA,J

Dt. 25.06.2018

Note:- CC by 28.06.2018

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