

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

C.R.P.No.1284 of 2018

ORDER

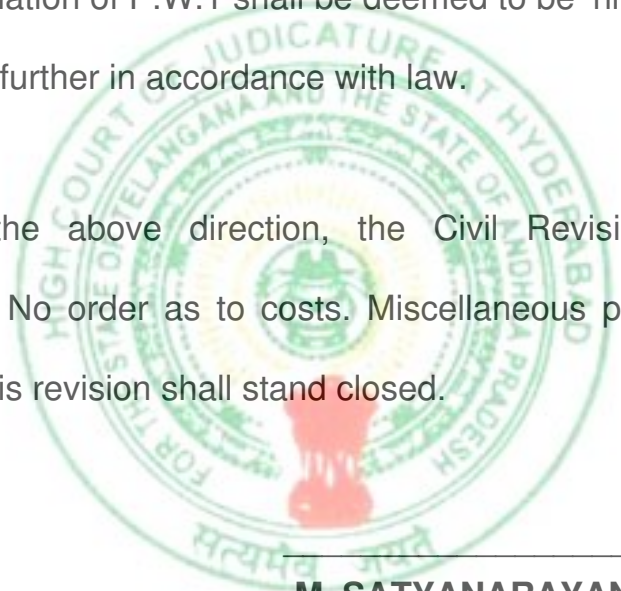
This revision under Article 227 of the Constitution of India is filed challenging the order dated 19.12.2017 passed in I.A.No.1052 of 2017 in O.S.No.3223 of 2015, by the XX Junior Civil Judge, City Civil Court, Hyderabad, dismissing the petition filed for recall of the order dated 11.12.2017, on which date, the counsel for petitioner/defendant came to the Commissioner's room a little bit late i.e., at 1.35 PM, and his junior counsel requested the Commissioner to pass over the matter for recording the cross-examination of P.W.1, but the counsel for respondent/plaintiff left the Commissioner's room on the ground that they need not wait till the Advocate for defendant turn up, thereupon, the counsel for respondent reported the said fact through memo and the Court recorded that the cross-examination of P.W.1 was closed.

2. It is the main contention of petitioner/defendant that the petitioner was not at fault, but his counsel was on the way to City Civil Court from Ranga Reddy District Court and the said fact was informed to the Commissioner and that the memo filed by the Commissioner itself suffice to conclude that the petitioner's counsel reported to the Court at 1.35 PM due to reason that he was in Ranga Reddy District Court and started from there to City Civil Court to cross-examine the witness in the City Civil Court, but it was 35 minutes late. Despite the request of the counsel for petitioner, the respondent and his counsel left the Commissioner's room on the ground that they need not wait till the counsel for petitioner turn up

for cross-examination. But the Court below, after taking into consideration, the conduct of the counsel for petitioner on the previous dates, closed the evidence.

3. The order passed by the Court below is erroneous and instead of protracting the matter for further time, it is appropriate to direct the XX Junior Civil Judge, City Civil Court, Hyderabad, to fix a date for recording cross-examination of P.W.1 and if the counsel did not cross-examine the witness on the date fixed by the Court, further cross-examination of P.W.1 shall be deemed to be 'nil' and the Court can proceed further in accordance with law.

4. With the above direction, the Civil Revision Petition is disposed of. No order as to costs. Miscellaneous petitions, if any, pending in this revision shall stand closed.



M. SATYANARAYANA MURTHY, J

5th March, 2018

Note:
Issue CC tomorrow.

sj