

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

**CIVIL REVISION PETITION Nos.1534, 1537 & 1538 of
2018**

COMMON ORDER:

These are the 3 revisions maintained one against the reopening of evidence and the other against recall of PW.1 for further cross-examination and the other against permitting further examination of DW.1, that were allowed by the orders in I.A.Nos.916, 917 & 915 of 2017 dated 22.01.2018 by the learned III Additional Junior Civil Judge, Nellore, by impugning the same.

The revision petitioners are the plaintiffs. The impugned orders are passed in favour of the defendants.

So far as reopening of the evidence concerned, unless the matter is reserved from arguments the matter is kept open and no petition to reopen to be filed.

So far as further cross-examination of any witness concerned by recall, it is only for the limited purpose from the wording of Order 18 Rule 17 CPC to enable the Court to put any question as it thinks fit and not of a right for further examination. The law is settled in this regard enabling the Court to put any question is to clear any ambiguity in the evidence for the effective pronouncement of the judgment and the scope is a kin to order 41 Rule 27(1)(b) CPC inherent power of the appellate Court. Once such is the case, the case of the party seeking is only to bring to the notice of the Court

what is relevant to clear any cloud with ambiguity and when the Court goes through the evidence for ultimate effective disposal of the lis and not as of right to put any question to fill up the gaps or to conduct denovo trial. Time and again, this Court is saying that when a party wants to assist the Court to clear any cloud by recall of any witness to put any questions even on behalf of the Court to permit by Court any party to put such questions the party must give in a sealed cover the limited scope where the ambiguity is there and to permit only such of those questions and connected with the relevancy and not a fresh recording of further evidence as otherwise tantamounts of filling of lacunas. Practically there is nothing for further examination of DW.1 from the affidavit petition, but for if at all to further cross-examination of PW.1 from additional documents filed of defendants that was allowed and once the source of title against the claim of the plaintiffs to substantiate the defence which may be called to clear the cloud or ambiguity within the scope of the suit for injunction based on possession from the claim of title if any.

Having regard to the above, CRP.No.1534 of 2018 is disposed of by confirming the order of allowing the petition in I.A.No.916 of 2017, however subject to condition of the defendants shall give in a sealed cover whatever the relevant questions to be put for the Court to keep the sealed cover and permit only out of those what are relevant to put by the Court or permit the party to put such questions.

So far as CRP.Nos.1537 & 1538 of 2018 are concerned, both are allowed by setting aside the impugned orders in I.A.Nos.917 & 915 of 2017 dated 22.01.2018, as the further examination of DW.1 is not necessary to clear any ambiguity in evidence and also reopen petition is not necessary when the matter is not reserved for judgment.

Miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 13.07.2018
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