

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.4456 OF 2017

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the order dated 25.07.2017 passed in I.A.No.285 of 2017 in O.S.No.27 of 2016 on the file of the Court of the I Additional Junior Civil Judge, Nellore.

2. Heard the learned counsel for the petitioner.

3. A perusal of the record reveals that the respondent filed O.S.No.27 of 2016 on the file of the Court of the I Additional Junior Civil Judge, Nellore, against the petitioner for perpetual injunction in respect of the suit schedule property. The petitioner filed a written statement denying the claim of the respondent. After closure of trial, the petitioner filed I.A.No.285 of 2017, under Order XVIII Rule 17 C.P.C., to recall DW.1 for the purpose of marking of a document. The respondent filed a counter *inter alia* stating that the petitioner has been filing the petitions one after the other with an intention to drag on the proceedings. The trial Court, after affording a reasonable opportunity to both parties, dismissed the petition. Hence, the revision.

4. The point that arises for consideration in this revision is:

“Whether there is any illegality, irregularity or impropriety in the impugned order?”

5. It is an admitted fact that the respondent filed O.S.No.27 of 2016 for perpetual injunction restraining the petitioner from interfering with the suit schedule property. After closure of both

sides evidence, the trial Court posted the matter for arguments. At that stage, the petitioner filed the present interlocutory application to recall DW.1 for the purpose of marking of agreement of sale dated 06.07.2006 and other letters. A perusal of the record reveals that the petitioner filed four petitions for reopening of the matter and the same were allowed on 08.12.2016, 06.01.2017, 27.01.2017 and 12.06.2017. The fact remains that the petitioner filed petitions four times for reopening of the matter at the stage of arguments.

6. I have carefully scanned the affidavit filed in support of the petition by the petitioner before the trial Court. There is no mention in the affidavit that whether the so-called agreement of sale pertains to the suit schedule property or some other property. The petitioner has not laid any foundation in the written statement about this agreement of sale. If really the petitioner intends to mark the agreement, what prevented him to file the same for all these days? The possibility of filing of this petition with an ulterior motive to drag on the proceedings cannot be ruled out completely. A perusal of the record reveals that the trial Court reopened the matter for four times at the instance of the petitioner. While dismissing the petition, the trial Court made an observation that it is filed with a view to procrastinate the suit proceedings. The trial Court has assigned reasons much less cogent and valid reasons while dismissing the petition. I am fully endorsing with the findings recorded by the trial Court. There is no illegality, irregularity or impropriety in the order of the trial Court warranting interference of this Court while exercising the jurisdiction under Article 227 of the Constitution of India.

7. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs.

8. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 29.08.2018

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