

HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION No. 3385 of 2018

ORDER:

The present application came to be filed under Article 227 of the Constitution of India assailing the order dated 06.03.2018 passed in I.A.No. 59 of 2016 in O.S.No. 131 of 2010, on the file of the Family Court-cum-IX Additional District and Sessions Court, East Godavari District, Rajamahendravaram, wherein an application filed by the petitioners to re-examine PW3 with regard to the relevant facts statement in the affidavit as PW6, was rejected. The petitioners, who are the plaintiffs herein, filed the above O.S for declaration of injunction, restraining the respondents 1 to 5 from interfering with peaceful possession of the petitioners over the suit schedule property.

2. It is the case of the 2nd petitioner that PW3 used to go to different places for his business purpose and could not return to Rajahmundry in time for attending his cross-examination, and as such, his evidence was eschewed on 21.02.2017. The petitioner stated that PW3 is a crucial witness to establish the marriage between the 4th defendant and one Sesha Kumar Reddy, and if his request for re-examination of PW3 is not considered, he would be put to irreparable loss.

3. A counter came to be filed by the respondents, disputing the averments made by the petitioners. According to the respondents, due to non-appearance of PW3 before the Court, the Court eschewed his evidence on 07.06.2017 but not on 21.02.2017. It is further stated that Naga Veera Sudhakara Reddy is a crucial witness to establish the marriage between the 4th respondent and one Seshu Kumar Reddy, and not PW3. Hence, seeks to reject the claim of the petitioners.

4. As seen from the material on record, more particularly, the contents of the order in I.A.No. 59 of 2016, which are not seriously disputed by the learned counsel for the petitioners, the evidence of PW3 was eschewed on 07.06.2017, but not on 21.02.2017, as contended by the learned counsel for the petitioners. After 21.02.2017, again, an opportunity was given to the petitioners for cross-examining the said witness. On 04.04.2017, PW3 was present before the Court, but at the request of the counsel for the 4th defendant, the cross-examination was deferred on the said date. Thereafter, when another date was given for cross-examination of PW3, he failed to attend before the Court and as such, his evidence was eschewed on 07.06.2017. Subsequently, an application came to be filed for restoring the chief affidavit of PW3, which was dismissed by the trial court, vide I.A.No. 1165 of 2017, vide orders dated 24.11.2017. The said order is not challenged till today. Without challenging the said order, I.A.No. 59 of 2016 came to be filed seeking permission of the Court for re-examination, i.e., the same plea, but, by giving different reasons.

5. Since the order in I.A.No. 1165 of 2017 dated 24.11.2017 has become final, and as the same is not challenged, the request of the petitioners to re-examine PW3, cannot be considered.

6. Having regard to the above, I feel that there are no grounds to interfere with the orders dated 06.03.2018 in I.A.No. 59 of 2016 in O.S.No. 131 of 2010, on the file of the Family Court-cum-IX Additional District and Sessions Court, East Godavari District, Rajamahendravaram. Accordingly, the C.R.P is dismissed. Miscellaneous petitions pending, if any, stand closed.

22.06.2018
DMG



JUSTICE C. PRAVEEN KUMAR