

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.5019 of 2016

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed aggrieved by the order, dated 02.09.2016, in I.A.No.885 of 2016 in O.S.No.11 of 2012 passed by the Senior Civil Judge, Peddapuram, East Godavari District.

2. The respondent herein, who is the defendant in the aforesaid suit, filed the aforesaid Interlocutory Application under Section 151 C.P.C, to re-open her evidence for adducing further evidence to enable her to establish her case. The Court below allowed the said application subject to payment of costs of Rs.500/- payable to Mandal Legal Services Authority.

3. Learned counsel for the petitioner contended that the reasons assigned by the trial Court are not in accordance with law; that while the Court counting the delay that caused by the defendant for one reason or other, having concluded that it has not satisfactory, but taking into consideration, the Court allowed the petition.

4. During argument, learned counsel for the petitioner contended that the impugned order is bereft of any reason to allow such application and in the absence of sufficient cause, the respondent is not entitled to the relief to adduce further evidence in the suit.

5. Learned counsel for the respondent contended that after passing the impugned order, further evidence was adduced and

affidavit of D.W.2 was filed under Order XVIII Rule 4 (2) C.P.C on 17.10.2016 and it was received and taken note of it treating as examination in-chief. Now, at that stage, the present revision petition was filed and obtained interim order.

6. When the respondent filed an affidavit in I.A.No.885 of 2016 in O.S.No.11 of 2012 and the same was received as evidence, under Order XVIII Rule 4, CPC the witness has to be cross-examined by the counsel for the plaintiff. At this stage, the petitioner sought to set aside the impugned order.

7. The suit is filed for Specific Performance of Agreement of Sale where the substantial rights of the parties are involved and if opportunity is denied to the defendant, it will have serious consequence. Taking into consideration all the facts and circumstances of the case including the nature of suit and stage of proceedings before the trial Court, the Civil Revision Petition is dismissed. However, the trial Court is directed to dispose of the suit O.S.No.11 of 2012 pending on the file of Senior Civil Judge, Peddapuram, as expeditiously as possible, in any event not later than two months from the date of receipt of a copy of this order.

Miscellaneous petitions, if any, pending in this revision petition shall stand closed. There shall be no order as to costs.

M. SATYANARAYANA MURTHY,J

NOVEMBER 01, 2018

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Date:01.11.2018

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