

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.R.P.No.734 of 2017

ORDER:

This revision petition is filed under Article 227 of the Constitution of India assailing the order dated 02.01.2017 passed in I.A.No.1393 of 2016 in O.S.No.929 of 2014 on the file of IV Additional Senior Civil Judge Court, Guntur.

2. Heard the learned counsel appearing for both the parties and perused the material on record.

3. The point that arises for consideration is:

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

4. A perusal of the record reveals that the respondent filed O.S.No.929 of 2014 on the file of IV Additional Senior Civil Judge Court, Guntur, against the petitioner for recovery of an amount of Rs.6,05,867/- with future interest. The petitioner filed written statement contesting the suit. The matter is coming up for petitioner side further evidence. The petitioner could not produce the witness on his behalf on the day fixed by the trial Court. Hence, the trial Court closed the evidence on behalf of the petitioner. The petitioner filed I.A.No.1393 of 2016 under Order XVIII Rule 17 read with Section 151 CPC to recall D.W.2. On 02.01.2017, the trial Court dismissed the petition. Hence, the revision.

5. A perusal of the record reveals that due to the reasons beyond the control of the petitioner, he could not produce the witness before the trial Court on one occasion. The trial Court dismissed I.A.No.1393 of 2016 without taking into consideration the prejudice

likely to be caused to the petitioner. If the petitioner is not permitted to adduce further evidence, it may not be possible for him to substantiate his stand taken in the written statement. Even if one more opportunity is given to the petitioner, it may not cause any prejudice to the respondent. Taking into consideration the facts and circumstances of the case, this Court is of the considered view that it is a fit case to allow the revision.

6. In the result, the Civil Revision Petition is allowed setting aside the order dated 02.01.2017 passed in I.A.No.1393 of 2016 in O.S.No.929 of 2014. Consequently, I.A.No.1393 of 2016 in O.S.No.929 of 2014 on the file of the IV Additional Senior Civil Judge Court, Guntur, stands allowed permitting the petitioner to adduce further evidence on his behalf. The trial Court is hereby directed to dispose of the suit as expeditiously as possible, preferably, within a period of six (6) months from the date of receipt of copy of this order. There is no order as to costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Dt:12.12.2018
Rns

T.SUNIL CHOWDARY, J