

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

CIVIL REVISION PETITION NO.3599 OF 2018

DATED:13-07-2018

Between:

Smt. Narra Swapna

... Petitioner

And

Bhamidipati Suseela Devi

... Respondent

COUNSEL FOR THE PETITIONER: Smt. S.A.V. Ratnam

COUNSEL FOR THE RESPONDENT: -



THE COURT MADE THE FOLLOWING:

ORDER:

This civil revision petition is filed against order dt.05.06.2018 in I.A. No.602 of 2018 in O.S. No.263 of 2011 on the file of the VI Additional Senior Civil Judge, Visakhapatnam.

The respondent filed the aforementioned suit for permanent injunction restraining the petitioner from interfering with the possession of the suit schedule property. The respondent has filed her affidavit evidence in lieu of chief examination. She was subjected to intense cross-examination on 16.8.2017 and 21.8.2017. After closing of the respondent's side evidence, the petitioner started his side of evidence. At the time of examination of D.W.3, the petitioner filed the aforementioned I.A. for recalling the respondent for further cross-examination. In the affidavit filed in support of the said application it was stated that after the evidence of D.W.2 recorded on 16.3.2018, the petitioner reported no further evidence and therefore after closing the evidence, the Court posted the case for arguments on 22.03.2018 and that as the petitioner wanted to cross-examine his neighbouring site owner, at his instance, the evidence was reopened on 22.3.2018 and the affidavit in lieu of chief examination of D.W.3 was

filed. The petitioner further averred that the lengthy trial proves and establishes that proper information could not be elicited from the respondent, who was examined as P.W.1, with regard to tracing of title of their vendor and that therefore the petitioner seeks recalling of P.W.1 for further cross-examination.

In my opinion, the reasons assigned by the petitioner for recalling P.W.1 are wholly fallacious. As noted hereinbefore, P.W.1 was cross-examined on two days and even after closing of the evidence on petitioner's side, at his instance, it was reopened for examination of D.W.3. The petitioner is thus in the habit of seeking reopening of the evidence once closed. At any rate, it is not the case of the petitioner that fresh material came to his knowledge which is relevant that is required to be put to the respondent for further cross-examination for proper and effectual adjudication of the suit. Basically as the suit being one for injunction, the Court may go into title only incidentally. Therefore, the petitioner cannot seek further cross-examination of the respondent on the title when he already availed the opportunities given to him by cross-examining the respondent.

For the aforementioned reasons, I do not find any merit in this civil revision petition and the same is accordingly dismissed.

As a sequel to dismissal of the civil revision petition, I.A. No.1 of 2018 shall stand disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

13-07-2018

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