

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.3698 OF 2018

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the orders dated 30.04.2018 passed in I.A.No.760 of 2018 in O.S.No.474 of 2012 on the file of the II Additional Chief Judge, City Civil Court at Hyderabad.

2. Heard the learned counsel for both parties.

3. A perusal of the record reveals that the respondent filed O.S.No.474 of 2012 on the file of the II Additional Chief Judge, City Civil Court at Hyderabad, against the petitioners for declaration and recovery of the suit schedule property. After completion of the both sides evidence, the petitioners filed I.A.No.760 of 2018 to recall PW.1 for the purpose of further cross-examination. After hearing both sides, the trial Court dismissed the said interlocutory application on merits. Hence, this revision petition.

4. Now the point that arises for consideration is:

Whether there is any illegality, irregularity or impropriety in the orders passed by the trial Court?

5. It is not in dispute that the first petitioner is the own sister of the respondent. The second petitioner is the husband of first petitioner and brother-in-law of respondent. A perusal of the record reveals that initially the petitioners did not appear before the trial Court. Thereafter, the petitioners filed an interlocutory application to set aside the *ex parte* order passed against them.

The trial Court allowed the said interlocutory application and permitted the petitioners to file the written statements. On behalf of the respondent, PWs.1 and 2 were examined. The first petitioner examined herself as DW.1. After completion of the arguments on behalf of the respondent/plaintiff, the petitioners/defendants filed the present interlocutory application.

6. A perusal of the record reveals that chief examination affidavit of PW.1 was filed on 19.01.2015. On 24.06.2015 documents were marked on behalf of respondent. An Advocate Commissioner was appointed for the cross-examination of PW.1. For one reason or other, the petitioners did not choose to cross-examine PW.1. Having no other alternative, the advocate commissioner returned the warrant to the Court. Again the petitioners filed an interlocutory application to permit them to cross-examine PW.1. The trial Court allowed the said petition permitting the petitioners to cross-examine PW.1. A perusal of the record clearly reveals that PW.1 was cross-examined by the petitioners' counsel on 08.03.2016, 16.03.2016, 17.03.2016, 21.03.2016 and 01.04.2016. I have carefully perused the cross-examination of PW.1, which consists of 17 pages. A perusal of the same reveals that the petitioners cross-examined PW.1 at length on various aspects including legality of Ex.A.1-sale deed. The petitioners also cross-examined PW.1 touching the aspects of jurisdiction, court fee and other ancillary aspects. A perusal of the record clearly reveals that the petitioners cross-examined PW.1 on all aspects. As observed earlier, after completion of the respondent/plaintiff's side arguments, the matter was posted to

petitioners/defendants' side arguments. At that stage, the present interlocutory application is filed.

7. I have carefully perused the affidavit filed before the trial Court in support of the petition. No reasons much less cogent and valid reasons are mentioned in the affidavit as regards the purpose for which PW.1 to be recalled for cross-examination. The trial Court considered all these aspects and dismissed the petition. The trial Court assigned reasons much less cogent and valid reasons while dismissing the petition. I am fully endorsing the findings recorded by the trial Court. The possibility of filing this petition at the fag end in order to protract the matter as long as possible cannot be ruled out completely. There is no illegality, irregularity or impropriety in the order of the trial Court warranting interference of this Court.

8. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 03.07.2018
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