

HON'BLE SRI JUSTICE S.V.BHATT

CIVIL REVISION PETITION No.1388 of 2011

ORDER:

Heard Mr.G.Pedda Babu for revision petitioner.

Notice though is served on the plaintiffs/respondents herein none appears for respondents.

The defendant is the revision petitioner. O.S.No.133 of 2010 is filed for recovery of the suit amount of Rs.22,50,000/-. PW.1 was examined, the documents were marked and the case was adjourned to 02.12.2010 for cross-examination of PW.1. The cross-examination of PW.1 was closed on 27.12.2010. Hence, the petition to recall PW.1 for cross-examination.

On 21.04.2011, this Court directed stay of all further proceedings in O.S.No.133 of 2010. Through the order under revision, the learned Principal District Judge declined the prayer to recall PW.1. Hence, the Civil Revision Petition.

Mr.Pedda Babu contends that he is not disputing the ratio laid down in the cases, which are referred in the order under revision. He contends that between 18.11.2010 and January, 2011 on account of State wide agitation, the entire activity in the Society including functioning of courts was brought to standstill. If it is a case of boycott for a reason attributable to the fraternity or that the revision petitioner's Advocate abstained from work, this reason can be put against the revision petitioner. He draws the attention of the

Court to the stand taken in the written statement and contends that if the right to cross-examination in a case where the contest is on all fours is denied, the revision petitioner finally suffers prejudice. He submits that in cases like this instead of fully penalizing a party, reasonable terms ought to have been imposed to reopen and recall PW.1.

I have perused the record and noted the submissions of Mr.Pedda Babu.

This Court is bound by the principles of law laid down by the Supreme Court in *RAMON SERVICES PRIVATE LIMITED Vs. SUBHASH KAPOOR*¹, *Ex Capt. HARISH UPPAL Vs. UNION OF INDIA*² and *VADIRAJ NAGAPPA VERNEKAR Vs. SHARADCHANDRA PRABHAKAR GOGATE*³. In normal circumstances, this Court would have also followed the very same decisions and declined the request for reopening of evidence or recalling a witness. In the case on hand, the suit is filed for recovering substantial amount of Rs.22,50,000/-. The defendant has set up substantive defence while disputing the case of plaintiffs. Therefore, under those circumstances, the denial of right to cross-examination ultimately affects the right of revision petitioner.

As rightly pointed out by Mr.Pedda Babu himself that terms could be imposed for recalling PW.1, I am satisfied that the order under revision can be set aside.

¹ 2001 (1) SCC Page 118

² 2003 (2) SCC page 45

³ 2009 (4) SCC 410

The Civil Revision Petition is accordingly allowed. PW.1 is recalled for cross-examination subject to revision petitioner depositing a sum of Rs.5,000/- (Rupees five thousand only) as costs to the credit of Member Secretary, District Legal Services Authority, Guntur, within four weeks from today. On deposit of costs, the date is stipulated by the trial Court for recalling PW.1 and on the day so fixed by the trial Court, the cross-examination is completed. The trial Court endeavours to dispose of the suit as expeditiously as possible, preferably within three months from today.

Miscellaneous petitions, if any, pending, shall stand closed. No order as to costs.

Dt: 04-10-2018

Note:

Issue CC in two days

(B/o)

Prv

S. V. BHATT, J



