

THE HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION No.4924 of 2016

ORDER:

1) Assailing the common order, dated 07.06.2016, passed in I.A.Nos.1095 and 1096 of 2015 in O.S.No.7 of 1995 on the file of the Senior Civil Judge, Amalapuram, wherein the applications filed praying the Court to re-open suit and to recall PW.11 (4th plaintiff) for further cross-examination, were rejected, the present Civil Revision Petition came to be filed.

2) The petitioners herein are the plaintiffs and the respondents herein are the defendants in O.S.No.7 of 1995. For the sake of convenience, the parties hereinafter will be referred to as arrayed in the suit.

3) The facts in the I.A. filed are as under:

The petitioners/plaintiffs filed the above suit seeking partition of the plaint schedule properties. When the suit was posted for arguments, the petitioners/plaintiffs filed the present applications to re-open the suit and to recall PW.11 for the purpose of further cross-examination. It is stated in the affidavit that while cross-examining PW.11, the counsel for the plaintiffs forgot to cross-examine him on some important aspects, which will help the Court to appreciate and decide the truth or otherwise of the contention of the parties. As such, they filed the

present applications to re-open the suit and to recall PW.11 for the purpose of his further cross-examination.

4) A counter came to be filed by the respondents opposing the same contending that elaborate cross-examination was made. It was further stated that PW.11 was examined long back and the defendant's evidence was closed. Only to fill up the lacunas, the present applications came to be filed at a belated stage, that too when the matter is posted for arguments.

5) After considering the arguments advanced, the trial Court dismissed the said petitions. Aggrieved by the same, the present Civil Revision Petition is filed.

6) Reiterating the same grounds, the learned counsel for the petitioner would submit that PW.11 has to be cross-examined further on some important aspects, which are essential for an effective adjudication of the matter.

7) It is to be noted here that the suit is of the year 1995 which is one of the oldest suits in East Godavari District. PW.11, who is none other than the first defendant and transposed as fourth plaintiff as per the order dated 21.03.2017, was cross-examined at length. Now the plaintiffs want to cross-examine PW.11 at a very belated stage that too at the stage of arguments. The affidavit filed in support of the petition is silent as to the purpose for which the plaintiffs intend to recall PW.11 (their own witness), who was already cross-examined at length. The record further discloses

that entire trial is over and the case is posted for arguments. At that stage, the present applications came to be filed. In the absence of any reasons being given as to why they intend to recall PW.11, I feel that the purpose is only to delay the proceedings further. Hence, I see no reasons to interfere with the order of the trial Court.

8) Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

9) As a sequel thereto, Miscellaneous Petitions pending if any, shall stand closed.

16.02.2018
gkv

JUSTICE C. PRAVEEN KUMAR

