

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.4766 of 2018

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the unsuccessful plaintiff assailing the order, dated 02.05.2018, passed in I.A.No.89 of 2018 in O.S.No.251 of 2014 by the learned VII Additional District Judge, Gudur.

2. I have heard the submissions of the learned counsel for the petitioner/plaintiff and perused the material record, including the grounds urged and the order impugned.

3. Notices ordered to the respondents earlier are yet to be served. However, notice is stated to have been served on the learned counsel for the respondents/defendants in the proceedings before the trial Court.

4. Having heard the submissions of learned counsel for the petitioner/plaintiff and having regard to the unusual nature of the matter, this Court is of the considered view that this revision can be disposed of at this stage.

5. From the submissions made and the material record, it is perceptible that the instant interlocutory application is filed by the plaintiff for recalling PW1 and/or for re-opening his examination-in-

chief for the purpose of marking certain documents through him. Though no counter is filed, the trial Court dismissed the said application by the impugned order, as the evidence of PW1 is not yet closed and the recording of the evidence of PW1 is in progress. In the light of the said observation of the trial Court, which is not disputed before this Court, this Court is of the considered view that when the cross-examination of PW1 is in progress, the question of recalling PW1 or re-opening his examination-in-chief for marking the documents does not arise and that in the event the plaintiff wants to mark any documents in the evidence of PW1, the plaintiff may seek permission of the trial Court, after conclusion of the cross-examination of PW1, for marking the documents in his re-examination, if permissible. Further, if entertaining of such a request is not permissible, at that stage, in the facts and circumstances of the case, the plaintiff always has liberty to recall PW1 for further examination-in-chief and marking the documents, after filing the same along with an appropriate application, if the same are not already filed and received on file.

6. In that view of the matter and on the above analysis, this Court is of the considered view that this revision petition can be disposed of with appropriate observations.

7. In the result, the Civil Revision Petition is dismissed confirming the order of the trial Court, which is impugned, however, reserving liberty to the plaintiff to make a request to the trial Court, after

conclusion of the cross-examination of PW1, to permit to re-examine PW1 and mark the documents in his further examination-in-chief, that is, in his re-chief-examination, if permissible, in the facts and circumstances of the case. It is needless to state that if entertaining such a request is not permissible, at that stage, in the facts and circumstances of the case, the plaintiff always has the liberty to file an application to recall PW1 for further examination-in-chief and marking the documents, after filing the necessary documents along with an appropriate application, if the same are not already filed and received on file. It is needless to state that any applications, which the plaintiff may file, shall be disposed of by the trial Court in accordance with the procedure established by law.

There shall be no order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

M.SEETHARAMA MURTI, J

16.11.2018

Note: Issue CC by 20.11.2018

B/o

v v