

THE HON'BLE SRI JUSTICE S.V.BHATT

C.R.P.Nos.5222 & 5228 of 2018

COMMON ORDER:

Heard Ms.Pulipati Radhika for revision petitioners.

Perused the docket order dated 23.08.2018 in I.A.No.450 of 2018 in O.S.No.188 of 2014.

The application filed by the revision petitioner in I.A.No.450 of 2018 to recall P.W1 to confront the proceedings dated 15.11.2005 has been rejected by the learned trial Judge. To appreciate the difficulty faced by the trial Court in disposing of the suit, the Court finds it necessary to excerpt the reasons for dismissing the instant application which reads thus:

“Perused the record which revealed that though the petitioners/defendants filed the said document i.e., proceedings of Special Deputy Collector, I.A. SRSP vide Proc.No.A5/1121/2004 (46) dt.15-11-2005, but it was not marked on behalf of petitioners/defendants through their evidence and moreover, it is a document issued under the Right to Information Act. In the above circumstances, the question of confronting the said document to the witness/P.W.1, the said document was very much available on record and nothing prevented the petitioners to confront that document to the PW.1. Thus, though the petitioners were at liberty to confront to such document during the cross examination of PW.1, it was done so at that time for the reasons best known to them and they kept quite for all these days and at the fag end

stage of arguments, the said point is raised, which cannot sustain at all.

This is a suit pertains to the year 2014 and it is at the stage of arguments which requires expeditious disposal, but in vain. It is evident from the docket proceedings that since 11-12-2017 and even after lapse of (24) adjournments, the proceedings in this suit are help up only at the stage of arguments itself due to filing of one petition or other on one pretext or other by either of the parties.

In view of the above discussion and on close scrutiny of the entire material available on record, this Court is of the considered view that the present petition lacks merits and thus the same is liable to be dismissed.”

The suit is for perpetual injunction and after the evidence on both sides was closed as early as 11.12.2017, still the arguments in the case could not be completed, much less judgment pronounced. The trial Court as already noted above, would have certainly considered the prayers for recalling a witness, broadly to keep in line with the requirement of affording a fair opportunity to both the parties. The trial Court is precluded from exercising the discretion if the parties with their conduct themselves disentitle their consideration of said discretion. In my considered view, the case on hand falls in the later category. The refusal to recall P.W.1 is for justifiable reasons.

Civil Revision Petition No.5222 of 2018 is dismissed with the above observations.

In view of the dismissal of CRP.No.5222 of 2018, the Civil Revision Petition No.5228 of 2018 filed to reopen the suit to recall P.W.1 is also dismissed. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

Dt: 20.09.2018
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S. V. BHATT, J



