

THE HON'BLE SRI JUSTICE S.V.BHATT

C.R.P. No.1547 of 2013

ORDER:

Heard Mr.Subba Reddy for revision petitioner and Ms.J.K.Anita holding for Devanand for respondents herein.

The defendant aggrieved by the docket order dated 17.12.2012 has filed the instant revision. The circumstances necessary for disposing of the CRP are stated thus:

On 20.07.2012, the trial Court eschewed the evidence of P.W3 and also closed the evidence on the side of plaintiff/respondent herein. On 25.07.2012, the respondent filed I.A.No.352 of 2012, with the following prayer:

“To reopen the matter on petitioner side for adducing the further evidence in the interest of justice under the circumstances of the case.”

On 23.08.2012, I.A.No.352 of 2012 was allowed on costs. It is in this background the controversy that has arisen is that the respondent introduced the evidence of P.W3 and the same is accepted by the trial Court and directed the case to be posted on 19.12.2012 for appearance of P.W3 for cross examination. Hence, the Civil Revision Petition.

Mr.Subba Reddy points out solitary illegal approach against the order under Revision i.e., the order dated 20.07.2012 has two facets one eschewing the evidence of P.W.3 and another closing of evidence on the side of the plaintiff/respondent herein. I.A.No.352

of 2012 was filed to reopen the suit to enable the respondent to adduce further evidence. The prayer since is accepted by the revision petitioner what can be said to have been granted in I.A.No.352 of 2012 is to adduce further evidence by plaintiff/respondent. As long as the order of eschewing the evidence of P.W.3 stands on record, filing the same affidavit with another affirmation date is contrary to the procedure. Mr.Subba Reddy contends that the submission of the revision petitioner stands in isolation of what is stated in the affidavit in I.A.No.352 of 2012.

According to learned counsel for respondents, the very purpose of the prayer in I.A.No.352 of 2012 is to reopen the suit to adduce the evidence by plaintiff/respondent. The Court, after taking note of totality of circumstances, ordered the said application. Therefore, the objection raised is purely technical and the reasons given by the trial Court suffice dismissal of Civil Revision Petition.

I have heard the learned counsel appearing for the parties and perused the record.

At the first blush it appears that there is serious deviation in allowing the plaintiff/respondent to re-introduce P.W.3 by filing fresh chief affidavit. But, after going through the affidavit filed in I.A.No.352 of 2012; the order dated 23.08.2012 and the reasons assigned in the docket order dated 17.12.2012, this Court is of the view that the docket order does not warrant interference. It looks

the trial court was affording an opportunity keeping in view what is accepted in the order dated 23.08.2012.

This Court does not see a ground warranting interference under Article 227 of Constitution of India. The Civil Revision Petition fails and accordingly dismissed. No order as to costs.

The trial Court is directed to consider and dispose of the suit as expeditiously as possible preferably within a period of two months from the date of receipt of copy of this order.

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

Dt: 11.10.2018
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S. V. BHATT, J

