

HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Civil Revision Petition No.5537 of 2018

ORDER:

This CRP is disposed of at the admission stage as this Court considers it not expedient to issue notice to respondents.

2) This CRP is filed by the petitioners/defendants 3 and 4 aggrieved by the order dated 18.06.2018 in I.A.No.783/2016 in O.S.No.6/2008 passed by the learned Senior Civil Judge, Bhongir, wherein the petition filed by the petitioners/defendants 3 and 4 under Order XVIII Rule 17 CPC r/w Section 151 CPC to recall DW.1 for the purpose of marking documents and cross-examination, is dismissed.

3) The reason for dismissal of the petition is very curious and factually and legally untenable. The learned Judge observed as if the petition is not maintainable for the purpose of marking of the documents and the prayer is to recall the DW.1 and there is no mention about the list of documents to be marked and no useful reasons are mentioned in the petition for recalling the petitioner. I am constrained to hold that the aforesaid observation of the Trial Court is incorrect. In the affidavit filed in support of I.A.No.783/2016, the petitioner clearly mentioned that after plaintiffs' evidence was over, the petitioner/D.3 filed her chief affidavit as DW.1 and thereafter her evidence was closed and hence she filed I.A.No.781/2016 to reopen the matter and she also filed I.A.No.782/2016 to receive the list mentioned documents in her evidence and filed I.A.No.783/2016 to recall

her for making those documents and for her cross-examination. It is pertinent to note that the Trial Court already allowed I.A.No.782/2016 on 07.03.2018. The petition in I.A.No.782/2016 contains the list of the documents which the petitioners proposes to mark and therefore, the Trial Court was not right in observing that there is no mention about the list of documents to be marked. Since the list of the documents proposed to be marked is already mentioned in the connecting I.A.No.782/2016, there is no need to repeat the said list of documents in I.A.No.783/2016 which is filed essentially to recall DW.1. The Trial Court ought to have seen that the order in I.A.No.782/2016 will be otiose if the other two petitions are not allowed and the matter is not reopened and DW.1 is not recalled.

4) In the result, this CRP is allowed and the order dated 18.06.2018 in I.A.No.783/2016 in O.S.No.6/2008 passed by the learned Senior Civil Judge, Bhongir, is set aside and consequently I.A.No.783/2016 is allowed and the Trial Court is directed to recall DW.1 and permit her to mark the documents mentioned in I.A.No.782/2016 subject to admissibility, relevancy and proof and permit the witness to be cross-examined by the other side.

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

U. DURGA PRASAD RAO, J

Date: 26.09.2018

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