

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO
CIVIL REVISION PETITION No. 6682 OF 2018

ORDER:

This civil revision petition is disposed of at the stage of admission as this Court finds no exigency to order notice to respondent/plaintiff.

This revision petition is filed aggrieved by the order dated 24.07.2018 passed in IA No.345 of 2018 in OS No.177 of 2014 by the learned VII Additional District Judge, West Godavari District at Eluru, dismissing the petition filed by the revision petitioner/defendant under Order-XVIII Rule—17 r/w.Sec.151 CPC to recall PW.1 for further cross-examination.

The trial Court having observed that the revision petitioner has examined respondent/plaintiff as PW1 at length touching each and every aspect relating to his financial capacity clearly and relying on the decision of the Apex Court in *K.K. Velusamy V.Palanisamy*¹, dismissed the IA. Aggrieved by the same, the present revision petition is filed.

Heard.

¹ (2011) 11 SCC 275

The decision of the Apex Court clarifies that the power under Section 151 or O-XVIII R-17 CPC is not intended to be used routinely, merely for the asking and if so, it will defeat the very purpose of various amendments to the Code to expedite the trials, but where application is found to be bonafide and where additional evidence oral or documentary will assist the court to clarify the issues and will assist in rendering justice, the court may exercise its discretion to recall the witness or permit fresh evidence. But, if it does so, it should ensure that the process does not become a protracting tactic. Therefore, the trial court is justified in rejecting the request of the revision petitioner since the petition was silent as to the aspect on which the revision petitioner wanted to further cross-examine PW-1 on recall. In the affidavit filed in support of the instant revision petition, it is stated that the revision petitioner wants to touch the financial capacity of respondent/plaintiff, which was already elicited during the course of his cross-examination as is observed in the impugned order.

In that view of the matter, the findings of trial court in the impugned order cannot be said to be perverse or illegal requiring interference of this Court.

Accordingly, the civil revision petition is dismissed at the stage of admission. No costs.

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

06.12.2018
MJL



U.DURGA PRASAD RAO, J