

THE HON'BLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN

Civil Revision Petition No.6639 of 2018

ORDER:

Mr.G.Balaiah @ Aggu Balaiah, the petitioner, has preferred this Civil Revision Petition, aggrieved by the order, dated 03.10.2018, passed in I.A.No.745 of 2018 in O.S.No.4516 of 2008, by the IV Junior Civil Judge, City Civil Court, Hyderabad, whereby the Learned Junior Civil Judge has dismissed the petition filed, under Order XVIII Rule 17 CPC, for recalling DW.1 for continuation of the cross-examination.

Mr.Mohd. Rafee, the learned counsel for the petitioner, contends that the suit property consists of three different properties. Although, DW.1 was cross-examined with regard to two properties, the cross-examination with regard to the third property is still to be carried out. In case the opportunity to further cross-examine DW.1 is not granted to the petitioner, the petitioner would suffer irreparable loss as he was not be able to cross-examine DW.1 with regard to the third property. His non-cross-examination may adversely affect the interest of the petitioner. Therefore, a last opportunity to cross-examine DW.1 should be granted by this Court.

On the other hand, Mr.L.Prabhakar Reddy, the learned counsel for the respondents, submits that already six

opportunities were granted, during which the DW.1 was cross-examined by the petitioner. Therefore, according to the learned counsel, no further opportunity shall be given to the petitioner by this Court.

It is indeed trite to state that justice should not only be done, but also must appear to be done to both the parties before the trial Court. If the right to further cross-examination of DW.1 curtailed, the petitioner will obviously not have the feeling that justice has been done. A technical approach to law may undermine the faith of the people in the judiciary. But the judiciary cannot afford the luxury of having undermined the faith in the judiciary. In plethora of cases, the Hon'ble Supreme Court held that right to cross-examine a witness is a valuable right which should not be brushed aside lightly. Although, six opportunities were given to the petitioner, the petitioner did not cross-examine DW.1 vis-à-vis the third property. However, according to the petitioner, the cross-examination of DW.1 is still required to be carried out for the third property involved in the suit.

Keeping the conflicting interest of the parties in mind, it would in the interest of justice, to permit the petitioner to cross-examine DW.1 in a single day, provided that the petitioner pays costs of Rs.2,000/- to the respondent, prior to the commencement of the cross-examination.

Thus, the parties are directed to appear before the learned Trial Court on 05.12.2018. The Trial Court shall fix a

particular day/date for the cross-examination of DW.1. The petitioner is directed to ensure that the cross-examination is completed on that particular day, failing which, no further opportunity to cross-examine DW.1 shall be given to the petitioner. Once the cross-examination of DW.1 is over, the learned Trial Court is directed to rehear the final arguments of the parties, and to pass its judgment and decree within one month from the date of hearing of the final arguments of the parties.

With the aforementioned observations, the Civil Revision Petition is disposed of. The miscellaneous petitions pending, if any, shall also stand disposed of. No costs.



RAGHVENDRA SINGH CHAUHAN, J.

Date: 30.11.2018.

Note:
Issue C.C. by 03.12.2018.
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