

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

C.R.P. No.7407 OF 2017

ORDER : (Oral)

Vide the present petition, the petitioner has challenged the order dated 24.11.2017 passed in I.A.No.1352 of 2017 in O.S. No.39 of 2011 on the file of XII Additional District Judge-cum-Judge, Family Court, Guntur.

2. The petitioner filed the aforesaid I.A under Order VII Rule 14(3) and Section 151 of CPC praying to receive the documents by condoning the delay in filing the same.

3. It is not in dispute that the main suit is of the year 2011, in which, the petitioner as plaintiff entered into witness box and his examination was completed. It is also not in dispute that he was examined in cross by four branches of defendants for more than 6 spells at length. Only thereafter, the petitioner has come up with the petition afresh with certain documents to be received in evidence and for marking them as exhibits by recalling him.

4. The petitioner is silent before the trial Court and before this Court as to his incapacity to file the said documents before trial Court earlier.

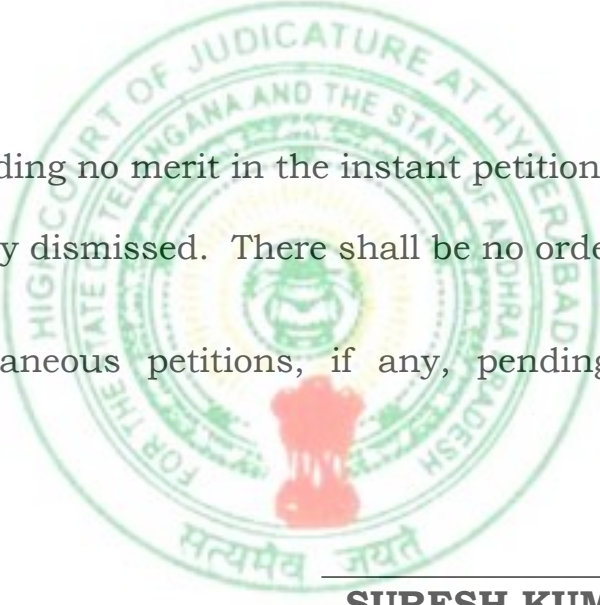
5. As per settled law, having examined in cross, the petitioner is not permitted to fill the gaps in his cross-examination, thereby causing prejudice to the contentions of

the other side and to deprive the advantage that accrued to the respondent with non-filing of the said documents. Permitting the petitioner to come up with the documents, it amounts to accepting his afresh pleadings that necessitate fresh evidence and further cross-examination, which would become a *denovo* trial.

6. In view of the facts recorded above, I hereby find no illegality or perversity in the order dated 24.11.2017 passed by the trial Court in I.A. No. 1352 of 2017 in O.S No.39 of 2011.

9. Finding no merit in the instant petition and the same is accordingly dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.



SURESH KUMAR KAIT, J.

Date : 19-01-2018
Gvl