

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.7158 OF 2017

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India, challenging the order in I.A.No.1892 of 2017 in O.S.No.80 of 2010 dated 14.11.2017 passed by the XXVII Additional Chief Judge, City Civil Court, Secunderabad.

The petitioner herein is the second defendant in O.S.No.80 of 2010, who was examined as D.W.2. The contention of the petitioner herein is that, in the opening paragraph of the cross-examination of D.W.2, the word 'not' is missing in second and fourth lines, and requested this Court to correct the mistake by incorporating then word 'not' at appropriate places, since the evidence of D.W.2 is total denial of agreement and that was the contention in the written statement also.

In the written statement, the petitioner herein pleaded ignorance about the transaction. Therefore, sought for correction of the deposition, by exercising power under Section 151 C.P.C. The Trial Court dismissed the petition by recording reason that the Trial Court had carefully recorded the evidence in the open Court by giving dictation to the Typist and thereafter the same was gone through by the witness and she signed the same and there is no omission by the Trial Court as pointed out.

The petitioner herein sought for correction of the deposition which amounts to withdrawing the entire admission. But, such oral admission can be explained by recalling the witness and in

case, the petitioner intends to clarify the admission, if any, made in the cross-examination as D.W.2, the petitioner is at liberty to file an application to recall D.W.2 under Order XVIII Rule 17 C.P.C on the ground that there was mistake in recording deposition as 'not' was missing in the lines 2 & 4 of cross-examination of D.W.2. But, by exercising power under Section 151 C.P.C, the Court cannot correct the deposition which totally takes away the admission, though answers were given in support of the plea raised in the written statement.

Therefore, giving liberty to the petitioner to file appropriate application under Order XVIII Rule 17 C.P.C to recall P.W.1 to clarify the alleged admissions in line nos. 2 & 4 of the cross-examination of D.W.2, and on filing such application, the Presiding Officer of the Court is directed to consider with reference to the entire deposition including denial of the agreement of sale at appropriate places on the suggestion put to the witnesses.

With the above direction, the civil revision petition is disposed of. No costs.

Consequently, miscellaneous applications pending if any, shall also stand dismissed.

JUSTICE M. SATYANARAYANA MURTHY

Date:22.01.2018

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