

THE HON'BLE SRI JUSTICE S.V.BHATT

C.R.P. No.6639 of 2017

ORDER:

Heard Mr.P.Chandrakanth, counsel for petitioners and no representation for contesting respondents, inspite of service of notice on the respondents (USR.No.8903 of 2017).

The defendant Nos.7 to 11 are the revision petitioners.

O.S.No.18 of 2013 is filed for specific performance of agreement of sale dated 05.05.2007. The petitioners herein filed I.A.No.599 of 2017 to recall P.W1-Bandari Kishan Rao for further cross examination of Ex.A3.

On 05.01.2017, P.W1 was cross examined and for further evidence, it was posted to 10.03.2017. On 10.03.2017, the evidence of P.W1 was closed. On 08.06.2017, I.A.No.599 of 2017 is filed to recall P.W1 for cross examination. The 1st respondent opposed the prayer and the trial Court through order impugned in the writ petition dismissed I.A.No.599 of 2017. Hence, the Civil Revision Petition.

The learned trial Judge by going into the necessity or relevancy of further examination of P.W1 on Ex.A3,

declined to exercise the discretion, thereby, dismissed I.A.No.599 of 2017,

Mr.P.Chandrakanth contends that the learned trial Judge committed illegality by going into the need or necessity of further cross examination of P.W.1 on Ex.A.3, for the revision petitioners to enjoy within four corners of law, to cross examine a witness to test oral and documentary evidence relied on by P.W1. The main contention is that affidavit does not disclose all the reasons proposed to be framed for further cross examination of P.W1 and that is no reason, when the latches or laxity cannot be attributed to petitioners to reject the prayer.

I have heard learned counsel and perused the record. *Prima facie*, this Court is of the view that the trial Court has undertaken a detailed enquiry into the purpose of proposed further cross examination and rejected the prayer at this stage of the matter. The Court ought to have exercised its discretion, by allowing the latitude available to a party in the matters of cross examination.

The order under Revision is set aside for the reasoning of the trial Judge is not convincing.

Accordingly, Civil Revision Petition is allowed and P.W1 is recalled for further cross examination. The date of

further cross examination is directed to be taken up and completed either on 01.03.2018 or 02.03.2018. The revision petitioners are directed to file the copy of this order along with a memo for recalling P.W1 for further cross examination. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

S. V. BHATT, J

Dt: 16.02.2018
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