

HON' BLE SRI JUSTICE C.PRAVEEN KUMAR
CIVIL REVISION PETITION No. 7453 of 2017

ORDER:

No representation on behalf of the petitioner. Heard Sri T.N.M.Ranga Rao, the learned counsel for the respondent.

2. The present application came to be filed under Article 227 of the Constitution of India assailing the order dated 20.11.2017 passed in I.A.No. 1734 of 2017 in O.S.No. 350 of 2016, on the file of the I Additional Junior Civil Judge, Kakinada, wherein an application filed to recall PWs 1 and 2 for cross-examination, was rejected.

3. A perusal of the material placed on record and the affidavit filed in support of the I.A. would show that the chief affidavits of PWs 1 and 2 were filed on 05.05.2017 and 13.08.2017 respectively and since then, they were appearing before the Court, but the defendant was taking time to cross-examine them. The record shows that number of adjournments came to be granted and finally, the cross-examination of PWs 1 and 2 was closed, treating the same as nil.

4. While matter stood thus, I.A.No. 1227 of 2017 came to be filed for recall of PWs 1 and 2 for the purpose of cross-examination, and the same was allowed on certain terms and conditions. Though the witnesses were present on 03.10.2017, only PW1 was cross-examined in part. Thereafter, on 26.10.2017, both the witnesses appeared before the court, but, the defendant

was absent. As there was no representation on behalf of the defendant till 4.50 p.m. on the said date, the application filed for recall of witnesses, was closed. Since the defendant did not avail the opportunities given to him, the trial court rejected this application seeking to recall PWs 1 and 2 for cross-examination.

5. Having regard to the nature of the suit, and as prejudice would be caused if the main witnesses are not cross-examined, I feel that a final opportunity can be given on certain conditions. At this stage, the learned counsel for the respondent would submit that a date may be fixed for cross-examination of PWs 1 and 2.

6. Having regard to the facts and circumstances of the case, and taking into consideration the statement made by the learned counsel for the respondent across the bar, the defendant is directed to cross-examine PWs 1 and 2 on the date fixed by the trial court and complete the same on the very same day. If, for any reason, the counsel for the defendant fails to appear and cross-examine PWs 1 and 2 on the said date, no further opportunity would be given to him, and the trial court shall proceed further in the matter.

7. With the above observations, the C.R.P is disposed of. Miscellaneous petitions pending, if any, stand closed.

JUSTICE C. PRAVEEN KUMAR

16.02.2018
DMG