

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.7565 OF 2017

ORDER :

This Civil Revision Petition is filed by the petitioner/defendant against order dated 28.11.2017 in I.A.No.1160 of 2017 in O.S.No.2 of 2012, wherein the application under Order 18 Rule 18 read with Section 151 CPC filed by the petitioner/defendant for recalling P.W.1 was dismissed.

Heard learned counsel for the petitioner, who submits that though there is some delay in filing the application, respondent can be compensated by way of costs, as such, the Court below ought to have allowed the application filed by the petitioner.

It is to be seen that this Court while issuing notice to the respondent, granted interim stay on condition of petitioner paying an amount of Rs.5,000/- to the respondent for engaging an Advocate in this case. Though notice is served and respondent received costs of Rs.5,000/-, which is evidenced by memo dated 12.02.2018 filed by the petitioner/defendant, there is no appearance on behalf of the respondent.

It is pertinent to note that the main suit is filed for declaration of title in respect of immovable properties, wherein substantial rights of the parties are involved.

A perusal of the impugned order of the Court below shows that the petitioner was given several opportunities to

cross-examine P.W.1 and in spite of conditional orders, he could not cross-examine P.W.1, as such, I do not see any infirmity in the order passed by the Court below. Since the substantial rights of parties are involved in respect of immovable property, one more opportunity can be given to the petitioner to cross-examine P.W.1.

In view of above facts and circumstances, the impugned order of the Court below is set aside. Since the suit is of the year 2012, the Court below shall fix a date for cross-examination of P.W.1 by the petitioner. If the petitioner fails to cross-examine P.W.1 on the date fixed by the Court below, it is open for the Court below to proceed further in the matter, in accordance with law.

Accordingly, the Civil Revision Petition is allowed to the extent indicated above. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY, J

26-02-2018
kvs

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