

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.444 of 2018

ORDER:

Heard the learned counsel for petitioner.

2. This Revision Petition is filed under Article 227 of the Constitution of India assailing the order dt.21-11-2017 in I.A.No.963 of 2017 in O.S.No.11 of 2004 of the Principal Senior Junior Civil Judge, Warangal.

3. Petitioner herein is the 3rd defendant in the suit.

4. The said suit was filed for specific performance of agreement of sale against the petitioner and others by respondent Nos.1 to 8. The evidence on the plaintiffs' side was closed on 12-04-2017 and the matter was posted for the defendant's evidence to 19-04-2017.

5. On 19-04-2017, there was no representation for the defendants. So matter was adjourned to 21-06-2017. On that date also there was no representation for the defendants. So on payment of costs of Rs.100/-, it was adjourned to 19-07-2017. On 19-07-2017 also, there was no representation for the defendants and costs were also not paid. So the evidence of the defendants was closed and the matter was posted to 04-08-2017.

6. On 04-08-2017, learned counsel for the defendant Nos.4 to 8 filed a petition under Order 17 Rule 1 CPC for reopening of the

evidence. So the matter was adjourned to 21-08-2017. On 21-08-2017, there was no representation on behalf of defendant Nos.4 to 8.

7. So the Court proceeded to hear arguments of the plaintiffs/respondent Nos.1 to 8 and posted the matter for hearing arguments of the defendants to 01-09-2017. On 01-09-2017, matter was adjourned to 07-09-2017.

8. On 07-09-2017, petitioner filed I.A.No.963 of 2017 to reopen the case for his evidence on the ground that he was not given opportunity to lead evidence. The Court below rejected the said application on the ground that except making a bald statement that he was out of station, petitioner did not throw any light as to what he was doing.

9. Assailing the same, this Revision Petition is filed.

10. Though in the order passed by the Court below, there was a reference to a compromise said to have been recorded in 2012, that date appears to be incorrect. But the fact remains that the petitioner having been given opportunity by the Court below to lead evidence on 19-04-2017, 21-06-2017 and 19-07-2017, did not choose to lead evidence and did not even appear before the Court below. He cannot be permitted to therefore take advantage of his own wrong in not leading evidence when he was given opportunity to do so by the trial Court.

11. Therefore, I do not see any reason to interfere with the order passed by the Court below.

12. Accordingly, the Civil Revision Petition fails and is dismissed. Interim order granted earlier is vacated. No costs.

13. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 26-02-2019

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