

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.1371 of 2019

ORDER :

This Revision is filed challenging the order dt.26-02-2019 in I.A.No.128 of 2019 in O.S.No.269 of 2008 of the VIII Additional Senior Civil Judge, Ranga Reddy District at L.B. Nagar, Hyderabad.

2. Petitioner herein is 3rd defendant in the suit.
3. The said suit was filed for perpetual injunction restraining the petitioner and other defendants from interfering with the alleged peaceful possession and enjoyment of the 1st respondent over the suit schedule property.
4. Petitioner herein filed written statement opposing grant of relief to the 1st petitioner on 02-12-2008.
5. Thereafter issues were framed and trial commenced and trial progressed on several dates. The evidence of 1st defendant was closed on 07-08-2015 after several steps. Thereafter matter was posted for arguments to 24-08-2015, but the evidence on the side of defendants was reopened on 13-06-2017 and later closed on 13-07-2018. From 27-11-2018, matter is posted for arguments and later adjourned to 17-12-2018, 25-01-2019, 21-02-2019, 25-02-2019, 26-02-2019, 07-03-2019, 20-03-2019, 10-04-2019, 18-04-2019, 04-06-2019, 11-06-2019, 01-07-2019 and 12-07-2019 i.e. today.

6. Petitioner, on 21-02-2019, filed I.A.No.128 of 2019 stating that when the case was posted for defendants' evidence, they did not turn up for filing chief-examination affidavits; that petitioner filed her chief-examination affidavit as D.W.1 initially; later 1st defendant filed his chief-examination affidavit and he was examined as D.W.1; after completion of evidence of D.W.1, matter was posted for examination of other witnesses; and later evidence of petitioner was closed. She alleged that she filed her chief-examination affidavit on 08-09-2015, but due to over sight, her evidence was closed on 13-11-2018. She contended that if her evidence is not reopened and she is not given opportunity, she would suffer irreparable loss and hardship.

7. By order dt.26-02-2019, the Court below dismissed the said application. It stated that the Court docket showed that the petitioner's evidence was closed in 2015 itself. It observed that the pleading of the petitioner that she filed affidavit in lieu of chief-examination on 08-09-2015 is false and that petitioner never whispered whether chief-examination was recorded and she did not state anything about her absence from 2015 to 2018. It observed that filing of chief-examination affidavit does not mean that it has been taken on record and no copy of the said affidavit has been filed along with the said application. It also observed that no petition has been filed to recall her as a witness even if the matter is reopened, and after 4 years after closing her evidence, this application is filed only to drag on the proceedings. It observed that no reason is assigned by

petitioner why she kept quiet from 08-09-2015 till 21-02-2019 and the suit is of the year 2008 and has been coming up for arguments since 2015. It therefore dismissed I.A.No.128 of 2019.

8. Assailing the same, this Revision is filed.

9. Heard the learned counsel for petitioner.

10. Learned counsel for petitioner contended that petitioner would suffer grave and irreparable loss if petitioner is not given opportunity to lead evidence and protect her interests in the suit.

11. Copy of 'A' Diary has been produced covering the period 19-06-2012 to 12-07-2019. It shows that the matter was at the stage of trial till 07-08-2015 and again from 13-06-2017 to 13-07-2018, it had been posted for defence evidence.

12. What the petitioner was doing after she allegedly filed chief-examination affidavit on 08-09-2015 till 21-02-2019 has not been explained by petitioner. She did not file chief-examination affidavit along with I.A.No.128 of 2019 and it is not known whether chief-examination affidavit filed by her was ever taken on record. Assuming that it was taken on record, why petitioner did not subject herself to cross-examination for all this period is not known.

13. The suit is of the year 2008 and the conduct of petitioner being grossly negligent, as seen from the above facts, I see no error of jurisdiction in the order passed by the Court below warranting

interference by this Court under Article 227 of the Constitution of India with the impugned order.

14. Accordingly, the Civil Revision Petition fails and it is dismissed at the admission stage. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 12-07-2019

Vsv

