

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

C.R.P. No.6406 of 2018

O R D E R:

This Revision is filed under Article 227 of Constitution of India challenging the order dt.19.07.2018 in I.A.No.274 of 2018 in O.S.No.1227 of 2008 of VII Additional Senior Civil Judge, City Civil Courts, Hyderabad.

2. Petitioner is the plaintiff in the said suit.

3. He filed the said suit against the respondents for specific performance of an agreement of sale dt. 25.06.2003 and seeking a direction to both the respondents 1 and 2 to jointly execute a regular sale deed in his favour.

4. After evidence of both sides was closed, the petitioner wanted the evidence of the plaintiff to be re-opened to examine P.W.2 alleging that the said individual had witnessed the signing of Ex.A.7 letter of compromise dt.25.07.2007, which is now being disputed by the 1st respondent; and therefore it is necessary to examine the said person as a witness on his side.

5. Counter affidavit was filed by respondents 1 and 3 opposing this application and taking the plea that the petitioner never told the Court that he intended to examine the said individual as P.W.2 and he did not also mention the name of said individual in the list of witnesses filed by him. It

is contended that it is only an after thought and a ruse to drag on the proceedings with a view to fill up the gaps in the evidence of the petitioner. It is contended that when petitioner failed to avail the opportunity given by the Court at appropriate time, he cannot now seek for reopening of the evidence of the plaintiff after the closure of the defendant's evidence.

6. By order dated 19.07.2018, the Court below dismissed the said application stating that the respondents, in cross-examination of P.W.1/petitioner admitted the execution of Ex.A.7 and so there was no necessity to examine the witness to that document.

7. Assailing the same, this Revision is filed.

8. Counsel for the petitioner contends that reasons given by the Court below for dismissing the said application is untenable since in the cross-examination of P.W.1, there cannot be an admission on behalf of the respondents. I find force in this contention.

9. Counsel for the respondents 1 and 3 sought to contend that after dismissal of I.A.No.274 of 2018 by the Court below, a review petition was also filed by the petitioner which was also dismissed. In my opinion, it would not make any difference because the reason given by the Court below that

the respondents have admitted in the cross-examination of P.W.1 about execution of Ex.A.7, is absurd.

8. Accordingly, the Civil Revision Petition is allowed; order dt.19.07.2018 in I.A.No.274 of 2018 in O.S.No.1227 of 2008 is set aside; the said I.A. is allowed. No costs.

9. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

03.04.2019

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