

**THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO**

**Civil Revision Petition No.6800 of 2018**

**ORDER:**

This Revision petition is filed under Article 227 of the Constitution of India challenging the order dated 04.09.2018 passed in I.A. No.612 of 2018 in O.S. No.261 of 2013 of the Additional Senior Civil Judge at Karimnagar.

2. The petitioner herein is the plaintiff in the suit.
3. He filed the suit for partition of the plaint schedule properties into six shares and allotment of 1/6<sup>th</sup> share to him.
4. During the course of trial, he examined P.W.1 and marked Exs.A-1 to 35, and his evidence was closed on 23.03.2018.
5. Thereafter, the respondents examined D.Ws.1 to 3 and their evidence was also closed on 14.08.2018.
6. On 21.08.2018 the petitioner filed I.A. No.612 of 2018 under Section 151 CPC seeking to reopen petitioner's evidence for adducing further evidence on the ground that he had only examined P.W.1 but did not examine any other witnesses; that he wanted to rebut the evidence of respondents 1 and 2, after completion of their evidence; that he was under the impression that he had filed a memo with a liberty to lead rebuttal evidence, though the said memo was prepared by the clerk of his counsel; that the evidence of witnesses, examined by respondents, has touched self acquired properties of the petitioner

also; and so he wanted to examine his vendors as well as his wife's vendors.

7. Counter affidavit was filed by respondents 1 and 2 opposing this application stating that several times the matter was adjourned but the petitioner did not lead further evidence. Later, the petitioner was recalled and P.W.1 was again examined; and thereafter, he himself reported no further evidence. It is pointed out that the suit itself was coming up for arguments, and at this stage this application has been filed seeking to reopen the case for further evidence; and petitioner cannot be permitted now to examine witnesses, after completion of the witnesses of the respondents, to fill-up the lacunae.

8. By order dated 04.09.2018, the Court below dismissed the said application.

9. It recorded that the chief-examination affidavit of P.W.1 was filed on 13.06.2017 and he marked Exs.A-1 to 16 on 04.07.2017, Exs.A-17 to 1-19 were marked on 12.10.2017, and again P.W.1 was recalled and again got marked Exs.A-20 to A-35 and subsequently his evidence was closed on 23.03.2018; that the evidence of respondents was closed on 14.08.2018; that the properties now mentioned in the I.A., are not part of the plaint schedule; and the examination of vendors of petitioner and his wife is in no way helpful to petitioner and to the case.

10. Assailing the same, this revision petition is filed.

11. The learned counsel for the petitioner contended that grave prejudice would be caused to the petitioner if his evidence is not reopened and if he is not permitted to lead fresh evidence. The fact remains that the suit is of the year 2013 and petitioner's evidence was being taken from 13.06.2017 till 23.03.2018; and evidence of both the parties had been closed by 14.08.2018. After the suit is posed for arguments, petitioner cannot be now allowed to lead fresh evidence with regard to properties, which are not the subject matter of the suit by examining his vendors and vendors of his wife and their evidence would have no bearing on the suit.

12. Therefore, I do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India.

Accordingly, this Revision Petition is dismissed. There shall be no order as to costs.

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

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JUSTICE M.S. RAMACHANDRA RAO

Date: 06.03.2019

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