

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**FRIDAY, THE TWELFTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SMT JUSTICE P.SREE SUDHA

CIVIL REVISION PETITION NO: 2806 OF 2023

Petition under Article 227 of the Constitution of India, aggrieved by the Order dated 10-07-2023 made in I.A.No.49 of 2023 in O.S.No.123 of 2012 on the file of the Court of the Principal Junior Civil Judge –cum- Judicial Magistrate of First Class at Huzurabad.

Between:

Smt Musham Chandrakala, S/o.Chander, Age: 48 years, Occ: Housewife,
R/o.H.No.13-53, Warangal Road, Huzurabad Mandal and Revenue,
Karimnagar District.

...Petitioner/Defendant No.2

AND

1. Sri Ellandula Bixapathi, S/o. Durgaiah, Age: 71 Years, Occ: ASI (retd),
R/o.H.No.13-62, Ellandula Wada, Huzurabad Town, Karimnagar District.
2. Sri Ellandula Srinivas, S/o.Durgaiah, Age: 42 years, Occ: Agriculture,
R/o.Bheemaram Village of Hasanparthi Mandal, Warangal District.
(R2 is not necessary party)

...Respondents/Defendant No.1

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to Stay the OS No.123 of 2012, on the file of the Junior Civil Judge, at Huzurabad by pending disposal of the CRP and pass

Counsel for the Petitioner: Sri. K. BUCHI BABU

Counsel for the Respondent No.1: Sri. GANTA RAMAKRISHNA

Counsel for the Respondent No.2: None Appeared

The Court made the following: ORDER

THE HONOURABLE SMT. JUSTICE P.SREE SUDHA

CIVIL REVISION PETITION No.2806 of 2023

ORDER:

This Civil Revision Petition is filed aggrieved by the order passed in I.A.No.49 of 2023 in O.S.No.123 of 2012, dated 10.07.2023 on the file of the Court of the Principal Junior Civil Judge-cum-Judicial magistrate of First Class at Huzurabad.

2. The Suit vide O.S.No.123 of 2012 is filed for declaration of title and perpetual injunction. During the pendency of the suit, I.A.No.49 of 2023 is filed by petitioner/defendant No.2 seeking recall of P.W.1 for further cross-examination on the ground that during cross-examination of P.W.1, the previous counsel has not posed some important and crucial questions on P.W.1.

3. Learned counsel for respondent contended that the petitioner filed the application only for recalling of P.W.1, but he has not filed any application to reopen the evidence of P.W.1.

4. On 11.03.2019, defendants were set exparte ~~as~~ despite conditional order that they did not appear to cross-examine P.W.1 and on 11.02.2021, P.W.1 was cross-examined by the

defendant No.2/petitioner. On 28.12.2022 defendant No.2 engaged another counsel by filing an affidavit and on 10.01.2023 as the matter was posted for cross-examination, I.A.No.49 of 2023 was filed for recall of P.W.1 on the ground that no crucial questions were not asked by previous counsel.

5. The Trial Court contended that the application is devoid of cogent reasons and was filed to drag the suit proceedings without any merit and also stated that if such petitions which do not assign valid and cogent reasons and by blaming the previous counsel for incomplete or improper cross-examination are entertained, there will be no end to litigation and accordingly dismissed the application.

6. When once P.W.1 was cross-examined by the counsel and evidence of P.Ws.2 and 3 was also completed, now on the ground of change of counsel and for recalling of P.W.1 for cross-examination cannot be accepted and he cannot be recalled again. The Trial Court rightly dismissed the application and moreover the petitioner has not filed any application to reopen the evidence of P.W.1 and only filed application to recall P.W.1. Therefore,

this Court finds no reason to interfere with the order passed by the Trial Court dated 10.07.2023 in I.A.No.49 of 2023 in O.S.No.123 of 2012.

7. In the result, the Civil Revision Petition is dismissed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

Sd/- C. PRAVEEN KUMAR
ASSISTANT REGISTRAR

//TRUE COPY//



SECTION OFFICER

To,

1. The Principal Junior Civil Judge –cum- Judicial Magistrate of First Class at Huzurabad
2. One CC to Sri. K. BUCHI BABU, Advocate [OPUC]
3. One CC to Sri. GANTA RAMAKRISHNA, Advocate [OPUC]
4. Two CD Copies

PSR/VH



HIGH COURT

DATED: 12/01/2024



ORDER

CRP.No.2806 of 2023

**DISMISSING THE CIVIL
REVISION PETITION
WITHOUT COSTS.**

⑥
12/3/24
A.B.