

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.61 of 2015

ORDER:

Heard the learned counsel for petitioner and the learned counsel for respondent.

2. The petitioner herein is defendant in O.S.No.2047 of 2011 on the file of the Court of the Principal Senior Civil Judge, Ranga Reddy District at L.B.Nagar (for short, trial Court). The respondent herein filed the said suit for eviction of the petitioner from the suit schedule property bearing H.No.13-17-100/1, corresponding to old No.17/100/1, 1st floor, Kamala Nagar, Saroornagar Mandal, Ranga Reddy District and for mesne profits. After closure of evidence of P.Ws.1 and 2, the petitioner herein filed I.A.No.939 of 2014 for recalling P.Ws.1 and 2 for re-examination. The trial Court, by its docket order dated 29.10.2014, dismissed the same, challenging which, the present Civil Revision Petition is filed.

3. The application for recalling P.Ws.1 and 2 was filed on the ground that the said witnesses deposed before the Special Mobile Court-cum-XI Metropolitan Magistrate, Cyberabad at L.B.Nagar in C.C.No.1107 of 2013 contradicting the facts deposed in the present case and the petitioner came to know of the same after closure of evidence of P.Ws.1 and 2 in the present suit. In the said application, a counter affidavit was filed stating that C.C.No.1107 of 2013 was filed on the allegation that a suit for specific performance was filed by the petitioner herein by forging her signatures. In the counter, the respondent denied of having deposed in C.C.No.1107 of 2013 contrary to what was stated in the examination in the present suit.

4. On the basis of the pleadings, the trial Court passed the docket order on 29.10.2014 as follows:

“ Petitioner is the defendant in OS.2047/11. Petition filed to elicit certain facts from PW1, PW2 as PW1, PW2 evidence was already closed. Along with the petition the petitioner filed two deposition of PW1, PW2 in CR.No.448/2012 for the purpose of confrontation.

But the said deposition cannot be confronted in the civil suit as the seen documents are the statement of witnesses in Cr.No.448/2012 before registering criminal case. As PW1, PW2 was already cross examination at length the petitioner did not disclose on which aspect witnesses PW1, PW2 are to be re-examined. Hence, there is no ground to allow the petition. Hence, petition is dismissed.”

5. In view of the fact that the petitioner came to know about the statements made by PWs.1 and 2 in the chief examination in Crime No.448/2012 on 17.04.2013 and 20.06.2013, only after closure of the examination in the present suit, the trial Court should have allowed the petitioner an opportunity to cross-examine PWs.1 and 2 on that aspect, if there were any contradictions as found by him. In the circumstances, this Court is inclined to give an opportunity to the petitioner to cross-examine PWs.1 and 2 on the alleged contradictions, if any.

6. Therefore, the docket order dated 29.10.2014 in I.A.No.939 of 2014 in O.S.No.2047 of 2011 is set aside and the petitioner herein is permitted to cross-examine PWs.1 and 2 on the alleged contradictions and the trial Court shall fix a date for the said purpose and the process shall be completed on or before 31.12.2015.

7. The Civil Revision Petition is, accordingly, allowed. No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 27.11.2015

Note: Issue CC by 01.12.2015.

B/o. TJMR

