

THE HON'BLE SHRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.80 OF 2015

DATED 24TH FEBRUARY, 2015

Between:

Kalakotla Manohar

... Petitioner

And

Model Chit Corp. Ltd., rep. by its Foreman
T.Audiram, Occ: Manager, R/o. Warangal,
And others.

... Respondents

THE HON'BLE SHRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.80 OF 2015

ORDER

This Civil Revision Petition arises out of the order dated 12.11.2014 passed by the learned I Additional Senior Civil Judge, Warangal, in O.S.No.182 of 2000.

Perusal of the memos filed by the parties and the consequential order passed by the Court below reflects that this is a classic case of the Court and the parties being at cross purposes. The respondent-plaintiff filed a memo on 03.09.2014 stating that PW.1 who was examined in the suit, prior to the decree against the petitioner-defendant No.7 being set aside, had left its service and his whereabouts were not known and that the evidence of PW.2 already submitted may be considered as the evidence on behalf of the plaintiff. In response to this memo, the petitioner-defendant No.7 filed a memo stating that he intends to cross-examine PW.1 to elicit the real facts from him as he was alive and he may therefore be directed to attend before the Court to face cross-examination.

However, perusal of the order under revision reflects that the learned counsel appearing for the petitioner-defendant No.7 stated before the Court that the evidence of PW.1 should be eschewed. Surprisingly, the Court below stated to the effect that on a careful perusal of the record, it was of the opinion that the evidence of PW.1 need not be eschewed.

The memo filed by the respondent-plaintiff clearly established

that the plaintiff did not wish to rely on the evidence of PW.1 who had already left its service and that the evidence of PW.2 alone should be taken to be the evidence on behalf of the plaintiff.

Sri G.Vasantharayudu, learned counsel on caveat for the respondent-plaintiff, also affirms this position.

It appears that the petitioner-defendant No.7 however wished to insist on the production of PW.1 for cross-examination, notwithstanding the fact that the respondent-plaintiff wanted to give up the said witness. This is evident from the memo filed by the petitioner-defendant No.7. However, during the hearing, it appears that the learned counsel for the petitioner-defendant No.7 himself stated that the evidence of PW.1 should be eschewed. Thus, both the parties were at consensus in so far as this aspect was concerned.

However, the Court below seems to have misconstrued the entire matter and opined that the evidence of PW.1 need not be eschewed. This observation of the Court below was not warranted. The order under revision holding to that effect is therefore set aside. The petitioner-defendant No.7 shall proceed with the cross-examination of PW.2 who shall be treated as the sole witness on behalf of respondent-plaintiff. The Court below shall keep in mind that the suit is of the year 2000 and dispose of the same expeditiously.

The CRP is disposed of in terms of the above order. Pending Miscellaneous Petitions shall stand closed. In the circumstances, there shall be no order as to costs.

SANJAY KUMAR, J

24th FEBRUARY, 2015

PGS