




APHC010035832024

IN THE HIGH COURT OF ANDHRA PRADESH ::
AMARAVATI
(Special Original Jurisdiction)

WEDNESDAY ,THE FOURTEENTH DAY OF
FEBRUARY
TWO THOUSAND AND TWENTY FOUR
PRESENT

[
3299
]

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

CIVIL REVISION PETITION NO: 170 OF 2024

Between:

MUMMIDI KOTESWARA RAO, AND OTHERS

...PETITIONER(S)

AND

KOTHANI VEERA VENKATA SATYA APPA RAO AND
OTHERS

...RESPONDENT(S)

Counsel for the Petitioner(s):SRI. M SRI ATCHYUT

Counsel for the Respondents:

The Court made the following:

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI**CIVIL REVISION PETITION No. 170 of 2024****JUDGMENT:**

Heard Sri M. Sri Atchyut, learned counsel for the petitioners.

This revision petition under Article 227 of the Constitution of India has been filed by the petitioners who are the defendants in O.S.No.267 of 2015 pending in the Court of VI Additional District Judge, Kakinada, challenging the impugned order dated 20.10.2023 passed in I.A.No.1092 of 2023 in O.S.No.267 of 2015 which was filed for recall of PW 1 for further cross-examination.

2. The said application was rejected by the learned trial Court on the ground that PW 1 was cross-examined by the petitioners/defendants. The PW-1 was also present on several occasions, but in spite thereof the defendants failed to cross-examine him. Consequently, the cross-examination of PW 1 was closed. Further, the petitioners, previously, also, filed I.A.No.37 of 2022 for the recall of PW 1, which was allowed by the trial Court and they further cross-examined PW 1. The case was posted for further evidence of plaintiff's side. The present application was filed for recall of PW 1 again for further cross-examination. The trial Court has recorded that the petitioners are not diligent in pursuing their case and their conduct shows that they are intentionally dragging on the case. The suit is for specific performance of recovery of advance amount of sale agreement.

3. The learned trial Court has observed that the object of the provision under Order 18 Rule 17 CPC is not intended to fill up the *lacunae* and that the petitioners failed to put forth any cogent reason to recall PW 1 again.

4. Undisputedly, the petitioners' previous I.A.No.37/2022 was allowed. PW 1 was recalled for further cross-examination and the defendants cross-examined him. Repeated applications for recall of the same witness for further cross-examination would not be maintainable, particularly, when in the present case the Court did not find any cogent reasons for such recall. It cannot be that a witness be recalled on mere asking of the applicant or at his convenience again and again for further cross-examination to fill the *lacuna*, if any. The discretion has been rightly exercised by the learned trial Court in rejecting the petitioners' application.

5. I do not find any illegally in the order of the learned trial Court. The civil revision petition is dismissed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

RAVI NATH TILHARI, J

Date: 14.02.2024
Dsr