

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

FRIDAY, THE THIRTIETH DAY OF AUGUST
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY



CIVIL REVISION PETITION NOs: 3098 AND 3099 OF 2013

CIVIL REVISION PETITION NO:3098 OF 2013

Petition is filed under Article 227 of the Constitution of India, against the Docket Order dated 02.07.2013 passed in I.A.No.249 of 2013 in O.S.No.786 of 2009 on the file of the Court of the Junior Civil Judge and Additional Judicial First Class Magistrate Court, Anaparthi, East Godavari District.

Between:

Botta Appa Rao, S/o.Katam Raju, Aged 55 years, R/o.Ambatipeta, Bikkavolu Village, Bikkavolu Mandal, East Godavari District.

...Petitioner/Defendant

AND

Bera Govindu, S/o.Veerraju, Aged 38 years, R/o.Ambatipeta, Bikkavolu Village, Bikkavolu Mandal, East Godavari District.

...Respondent/Plaintiff

CIVIL REVISION PETITION NO:3099 OF 2013

Petition is filed under Article 227 of the Constitution of India, against the Docket Order dated 02.07.2013 passed in I.A.No.248 of 2013 in O.S.No.786 of 2009 on the file of the Court of the Junior Civil Judge and Additional Judicial First Class Magistrate Court, Anaparthi, East Godavari District.

Between:

Botta Appa Rao, S/o.Katam Raju, Aged 55 years, R/o.Ambatipeta, Bikkavolu Village, Bikkavolu Mandal, East Godavari District.

...Petitioner/Defendant

AND

Bera Govindu, S/o.Veerraju, Aged 38 years, R/o.Ambatipeta, Bikkavolu Village, Bikkavolu Mandal, East Godavari District.

...Respondent/Plaintiff

Counsel for the above Petitioner: SRI S. SIVA BHAMI REDDY

Counsel for the above Respondent: SRI RAJASEKHAR TULASI

The Court made the following:

THE HON'BLE SRI JUSTICE NYAPATHY VIJAY

C.R.P.No.3098 and 3099 of 2013

COMMON ORDER:

The present revisions are filed against the orders dated 02.07.2013 in I.A.No.249 and 248 of 2013 in O.S.No.786 of 2009 passed by the Junior Civil Judge, Anaparthi, East Godavari District.

2. Petitioner is the defendant. The I.A.Nos.248 and 249 of 2013 were filed on 04.06.2013 to reopen and recall the evidence of P.W.1 which was forfeited/closed by the trial Court on 29.04.2013 as the counsel for the petitioner/defendant could not attend the Court on that day due to a minor accident. It was pleaded that the counsel for the defendant met with an accident and was unable to move around and it was on that account, the cross-examination of P.W.1 could not be conducted.

3. A counter affidavit was filed opposing the plea on the ground that the case underwent a substantial number of

adjournments on various grounds. It was contended that the present applications were only to drag on the proceedings.

4. The trial Court vide orders dated 02.07.2013 noted that the counsel for the defendant had taken several adjournments to cross-examine P.W.1 and though P.W.1 cross-examined at the first instance, the counsel for defendant took further time. In spite of imposing costs, the counsel for the defendant failed to cross-examine P.W.1 and right to cross-examine was forfeited due to failure in complying with the conditional order. Hence, the present revisions.

5. Heard Sri S.Siva Bhami Reedy, learned counsel for the petitioner and Sri Raja Sekhar Tulasi, learned counsel for the respondent.

6. From the reading of the order of the trial Court, it is apparent that the case underwent number of adjournments for the purpose of further cross-examination of P.W.1. However, as the consequence for non-cross-examination of P.W.1 would amount to admission by the defendant on aspects which PW.1 was not

cross examined, it would be in the interest of justice if one opportunity is given to the defendant to cross-examine P.W.1.

7. Therefore, the order of the trial Court dated 02.07.2013 is set aside, the petitioner shall conclude the cross-examination of P.W.1 on the date fixed by the trial Court without further adjournments. In default, the right to cross-examine P.W.1 will be forfeited.

8. As P.W.1 had been attending the Court and submitting himself for cross-examination from time to time, P.W.1 needs to be compensated by the petitioner/defendant for the time spent. This Court deems it appropriate to impose costs of Rs.10,000/- payable to P.W.1 as a condition precedent before cross-examining P.W.1. The proof of payment shall be filed by the petitioner along with a memo before the trial Court. In default of payment of costs, the right to cross-examine P.W.1 shall stand forfeited.

9. For the foregoing reasons, the order of the trial Court dated 02.07.2013 is set aside and the civil revision petitions are allowed subject to aforesaid. No order as to costs.

SD/- K SRINIVASA RAJU
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Junior Civil Judge and Additional Judicial First Class Magistrate, Anaparthi, East Godavari District. **(with records if any)**
2. One CC to Sri Siva Bhami Reddy S., Advocate [OPUC]
3. One CC to Sri Rajasekhar Tulasi, Advocate [OPUC]
4. The Section Officer, V.R. Section, High Court of Andhra Pradesh at Amaravathi.
5. **Three CD Copies**

BSV
sree

HIGH COURT

DATED:30/08/2024

COMMON ORDER

CRP.Nos.3098 and 3099 of 2013



ALLOWING THE C.R.Ps
WITHOUT COSTS