

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH

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CIVIL REVISION PETITION No.4801 of 2015

BETWEEN

The Bar Council of the State of Andhra Pradesh.

... PETITIONER

AND

Sri E. Seetharamaiah Chetty.

...RESPONDENT

DATE OF JUDGMENT PRONOUNCED: 01.12.2015

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

1. Whether Reporters of Local newspapers may be No
allowed to see the Judgments?
2. Whether the copies of judgment may be marked No
to Law Reporters/Journals?
3. Whether Their Ladyship/Lordship wish to see the No
fair copy of the Judgment?

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ORDER:

Petitioner in I.A.No.79 of 2015 in O.S.No.8 of 2009 on the file of the VIII Additional District and Sessions Judge, Chittoor, has questioned the dismissal of the said IA under order dated 09.10.2015. Petitioner is defendant in O.S.No.8 of 2009.

2. While the suit was posted at the stage of examination of D.W.2, in spite of two adjournments, there appears to be neither any representation on behalf of the petitioner before the Court below nor the witness was present. Consequently, the evidence of the defendant was closed and the suit was posted for arguments. The present application I.A.No.79 of 2015 was, therefore, moved by the petitioner seeking to reopen the case to enable the defendant to lead further evidence. The said application has since been dismissed under the impugned order, hence, this revision.

3. I have heard learned counsel for the petitioner and learned senior counsel for the respondent.

4. Though the contentions on behalf of the petitioner and the respondent are clearly in contrast to each other, it is evident that the affidavit filed by the petitioner in I.A.No.79 of 2015 was not contraverted by the respondent by filing counter affidavit.

The averments in the paras 3 and 4 of the counter affidavit, therefore, remained uncontraverted and the orders of the Court below closing the defendant's evidence deserve

to be recalled permitting the petitioner to examine D.W.2, which they wish to examine. It is also mentioned that D.W.2, who is proposed to be examined, is a practicing counsel in the District Court, Chittoor and on account of his professional pre-occupation in the other Courts, he could not be present in the Court below when called. Though the Court below recorded that the costs were not paid and there was no representation, the affidavit of the petitioner in support of I.A.No.79 of 2015 having remained uncontraverted was not noticed by the Court below. Hence, the impugned order cannot be sustained and an opportunity deserves to be granted to the petitioner to examine D.W.2.

5. Both the learned counsel agree that suitable date may be fixed for examination of D.W.2.

Hence, the civil revision petition is allowed. Petitioner shall examine D.W.2 on 21.12.2015 and thereafter, the Court below shall proceed with the hearing of the suit in accordance with law and dispose of the same expeditiously. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

December 1, 2015

Note: Furnish C.C. of the order by 04.12.2015.

(B/o) DSK