

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

CIVIL REVISION PETITION No. 4478 of 2015

ORDER:

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This Civil Revision Petition is filed, under Article 227 of the Constitution of India, against the order dated 06.08.2015 passed in I.A.No.483 of 2014 in O.S.No.450 of 2011 wherein the learned Additional Senior Civil Judge, Kurnool, dismissed the application filed by the petitioner herein/plaintiff seeking issuance of witness summons to the Commissioner, Dhone Municipality, directing him to appear and give evidence in the suit regarding payment of property tax to the suit schedule property, as Court witness.

2. Learned counsel for the petitioner submits that since the respondents/defendants are disputing Ex.A.2-tax receipts filed by the petitioner, the petitioner filed the application for examination of the Commissioner, Dhone Municipality, as a Court witness, but the Court below erroneously dismissed the application.

3. On the other hand, learned counsel for the respondents/defendants submits that a witness cannot be examined as Court witness as a matter of right, but in only compelling circumstances, when the Court feels that any witness has to be examined as a Court witness, then only it can be ordered, but not at the instance of the party.

4. It is to be seen that the petitioner was examined as P.W.1 in the suit filed by her for declaration of title and recovery of possession and she was cross-examined by the respondents stating that Ex.A.2-tax receipts are forged and fabricated. When the respondents have disputed Ex.A.2-tax receipts, it is for the petitioner to prove the same by examining the concerned person as a witness on her behalf. But instead, she filed the present application for examination of the

Commissioner, Dhone Municipality, as a Court witness. The Court below has rightly observed the same, discussed the matter elaborately, and dismissed the application relying on the judgment of this Court in ***Lingamdinne Rama Reddy Vs. Vongole Venkatarami Reddy*** reported in 2009 (5) ALT 659 wherein it is held that “*as the very expression connotes, the ‘Court Witness’, is the one whom the Court intends to examine on its own accord, and no party can insist on the Court to summon any individual as a Court Witness*”. Hence, I do not find any reason to interfere with the impugned order, by exercising the power under Article 227 of the Constitution of India.

5. Accordingly, the Civil Revision Petition is dismissed. However, it is open for the petitioner to examine the Commissioner, Dhone Municipality, as a witness on her behalf, as per law. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, pending in the revisions shall also stand dismissed.

A. RAJASHEKER REDDY, J.

1st December, 2015
cbs

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