

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

C.R.P. No.3040 of 2015

Between:

Dheerendra Educational Society

... Petitioner

And

Komarathi Satyanarayana

... Respondent

JUDGMENT PRONOUNCED ON : 24.08.2015

THE HON'BLE SRI JUSTICE : G.CHANDRAIAH

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? :
2. Whether the copies of judgment may be
marked to Law Reporters/Journals. :
3. Whether their Ladyship/Lordship wish to
see the fair copy of the Judgment? :

THE HONOURABLE SRI JUSTICE G.CHANDRAIAH

C.R.P. No.3040 of 2015

ORDER:

This revision petition has been filed against the order dated 01.07.2015 passed in I.A. No.639 of 2015 in O.S. No.134 of 2010 by the Senior Civil Judge, Nuzvid.

The revision petitioner and the respondent herein are the plaintiff and the defendant, respectively.

I.A. No.639 of 2015 was filed by the defendant under Order XVI Rule 7 of CPC seeking to issue summons to the witnesses to depose about the issuance of Exs.B-2 to B-6 and B-12 to B-14 and its contents in the interest of justice. The Court below, after consideration, dismissed the said I.A. Aggrieved by the same, the defendant filed the present revision petitioner.

The learned counsel appearing for the revision petitioner submitted that the defence pleaded by the defendant that the suit document and other documents were obtained by the plaintiff from the defendant under duress and coercion, there was a pre-litigation case wherein the documents were filed showing various payments and the said documents were taken away by the person at whose instance the present suit is filed. He also submitted that since the defendant's case solely rests on the evidence of the alleged one Radha Krishna and the member of the PLC Bench and to refuse to summon the said witnesses would scuttle the evidence of the defendant and cause irreparable loss to him in his defence. The Court below without proper appreciation of the material facts on record, dismissed the application filed by the defendant holding that the defendant filed the said application only with an intention to drag on the proceedings, which is erroneous. Therefore, the impugned order is liable to be set aside.

Heard the learned counsel appearing for the revision petitioner / defendant and perused the material on record.

As could be seen from the impugned order, it is clear that the suit is for recovery of certain amount. Trial is commenced and the plaintiff's evidence and his arguments were also closed. The suit is posted for arguments of the defendant. At this stage, the defendant filed the I.A. No.639 of 2015 seeking summons to witnesses.

It is significant to note that when it is the argument of the defendant that his case is solely rests on the evidence of the alleged witnesses nothing prevented him to seek issuance of summons during the course of trial.

It is the specific case of the plaintiff, before the Court below, that the alleged exhibits are no way relevant to the present suit transaction and he is no way connected with them. Specific finding of the Court below is that though the witness is summoned to give evidence, with regard to the documents on behalf of the defendant, his evidence is not relevant to decide the present suit as the suit is filed for recovery of money from the defendant and he is no way concerned to the suit. More so, it is also the specific finding of the Court below that the said application was filed at belated stage only with an intention to drag on the proceedings, which is sustainable.

In view of the above all, I do not see any reason to interfere with the impugned order as it does not suffer from any legal infirmity and this revision petition is liable to be dismissed.

Accordingly, this revision petition is dismissed.

Consequently, as a sequel, miscellaneous petitions, if any, stands closed. There shall be no order as to costs.

JUSTICE G.CHANDRAIAH

Date: 24.08.2015

LSK