

**THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO**

**CIVIL REVISION PETITION Nos.3895 & 4031 of 2015**

**COMMON ORDER :**

These two Civil Revision Petitions are being disposed of by this common order as they arose out of the orders passed in ATC No.02 of 2011 on the file of Principal Junior Civil Judge, Tadepalligudem, West Godavari District. The said case was filed by the petitioner herein seeking a declaration that he is a cultivating tenant and for consequential permanent injunction. The petitioner examined Pws.1 and 2 and the case was posted for further evidence on 19.02.2015. Thereafter it was adjourned twice.

2. On 03.03.2015 when the petitioner wanted to examine the witness, the said witness was absent. In those circumstances the petitioner's side evidence was closed. The petitioner filed I.A.No.614 of 2015 to reopen the matter for adducing further evidence and I.A.No.615 of 2015 was filed for issuing summons to the witness for identification of the signature of attestor on Ex.P.2. Both the applications were dismissed by separate orders dated 10.08.2015. Challenging the same, these CRPs are filed.

3. So far as C.R.P.No.4031 of 2015 is concerned, it arose out of an order in I.A.No.614 of 2015 praying the Court to reopen the matter for adducing further evidence. But the said application was dismissed on 10.08.2015 on the ground that in view of the orders passed in I.A.No.615 of 2015, there was no need to reopen the evidence of the petitioner. It is not known to the Court with regard to the evidence going to be adduced by the petitioner while dismissing I.A.No.614 of 2015 and in that view of the matter, it ought not to have dismissed I.A.No.614 of 2015 in view of the dismissal of I.A.No.615 of 2015. The Court should have given an opportunity to adduce further evidence by the petitioner, whose evidence was closed on 03.03.2015 for the absence of a witness. Accordingly the order in I.A.No.614 of 2015 is set aside.

4. So far as C.R.P.No.3895 of 2015 is concerned, it arose out of an order in I.A.No.615 of 2015 praying the Court to issue summons to witness for identification of the signature of attestor on Ex.P.2. The proposed witness is none other than the son of one Thota Dharma Rao, who was alleged to have attested Ex.P.2.

5. In the counter affidavit in I.A.No.615 of 2015 the respondents stated that the said Dharma Rao is no more. In view of the same there is no dispute with regard to the availability of the said Dharma Rao. However the objection raised by the respondents was that the said Dharma Rao was an elderly person and passed B.A. in the olden days. He was very learned and he signs clearly with a good hand writing. Now, the learned counsel for the respondents submit that the son of the said Dharma Rao is behind the present litigation and in view of the same, it is necessary to produce other documents containing the admitted signatures of said Dharma Rao, for identification of the signature of said Dharma Rao on Ex.P.2. The lower Court dismissed the application by order dated 10.08.2015 only on the ground that it is not clear

whether the said Dharma Rao is alive or not and also on the ground that the need for examining the proposed witness was not satisfactorily explained.

6. Since the said Dharma Rao is not available and he is one of the attestors on Ex.P.2, it cannot be said that summons to the son of said Dharma Rao is unnecessary. The son of the said attestor can be examined, with a rider that the other documents containing admitted signatures of said Dharma Rao shall be asked to be produced by the said witness.

7. In view of the same, the order in I.A.No.615 of 2015 is also set aside and accordingly both the C.R.Ps, are allowed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in these Revisions shall stand closed.

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23<sup>rd</sup> December, 2015  
Rds

**A. RAMALINGESWARA RAO, J**

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**DATED : 23.12.2015**

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