

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

CRP No.4061 of 2015

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Date:01.10.2015

Between:

Panyala Narsimha Goud

... Petitioner.

AND

Bathula Prabhudas and another.

...Respondents.

The Court made the following :

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

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ORDER:

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This revision is filed challenging order dated 02-04-2015 in I.A.No.255 of 2015 in O.S.No.155 of 2013 on the file of I Additional District Judge, Medak at Sangareddy.

2. The revision petitioner herein filed O.S.No.155 of 2013 to declare him as absolute owner of suit schedule property and restraining defendants from interfering with possession by way of perpetual injunction. In the said suit, plaintiff filed I.A.No.255 of 2015 contending that defendants filed third party affidavit of one Kasula Subhan Reddy and the said Subhan Reddy has to be summoned as a witness to confront with the contents of the affidavit filed by him in I.A.No.901/2013 and the said application was dismissed by the trial Court holding that the petitioner would have opportunity to confront that affidavit to the witness when the witness is produced on behalf of the defendants and therefore, there is no necessity to issue any summons at this stage of the suit and dismissed the application. Now aggrieved by the same, present revision is preferred.

3. Heard both sides.

4. Advocate for revision petitioner submitted that the Court below ought to have permitted the revision petitioner to summon the third party-K. Subhan Reddy to confront with the affidavit as the same is essential to prove his relief of declaration. From the submission of Advocate for revision petitioner, it is clear that the trial is not yet commenced in the suit. As per Order 18 Rule 3-A of CPC, where a party himself wishes to appear as a witness, he shall so appear before any other witness on his behalf has been examined, unless the Court, for the reasons to be recorded, permits him to appear as his own witness at a later stage. Admittedly, petitioner has not filed any application before the Court to exempt him to appear as a witness so unless such a permission is granted, there is no point in summoning a third party as a witness of plaintiff, unless there are compelling reasons. Affidavit is very vague and no reasons are assigned as to why a witness should come first as a witness even before party appears as a witness. The trial Court has rightly dismissed the application though not invoking Order 18 Rule 3-A, therefore, there are no merits in the revision and the same is dismissed at admission stage. No costs.

5. As a sequel, miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand dismissed.

JUSTICE S. RAVI KUMAR

Date:01.10.2015

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