

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

C.R.P.No.4792 of 2014

ORDER:

Heard Sri M.Mehdi Hussain, learned counsel for the petitioners and Sri P.Sridhar Reddy, learned counsel for the respondents.

2. This Revision Petition is filed challenging the order dt.15-10-2014 in I.A.No.282 of 2014 in O.S.No.900 of 2011 of the I Senior Civil Judge, City Civil Court, Hyderabad, permitting the respondent to mark photo copies of three documents.

3. During the evidence of P.W.1, the respondent sought to mark photo copies of documents alleging that original documents are in the custody and possession of the petitioners.

4. The Court below, by the impugned order, allowed the said application simply extracting Section 65 of the Indian Evidence Act, 1872 (for short 'the Act') and holding that the photo copies are admissible in evidence. No reference is made to Section 66 of the Act regarding the procedure laid down therein, to be followed by a party, who wishes to produce secondary evidence, alleging that the primary evidence is in the custody of the other side.

5. Therefore the impugned order cannot be

sustained and it is accordingly set aside. The Civil Revision Petition is therefore allowed. No costs. However liberty is given to the respondent to follow the procedure prescribed in Section 66 of the Evidence Act, 1872, in case the respondent wishes to mark the photo copies of the said documents as secondary evidence.

6. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 08-09-2015

kvr