

THE HON'BLE SRI JUSTICE K.C.BHANU
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CIVIL REVISION PETITION No.897 OF 2015

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed against the common order, dated 20.02.2015, in Interlocutory Application No.64 of 2015 and Interlocutory Application No.911 of 2014 in Original Suit No.137 of 2008 on the file of the Principal Junior Civil Judge, Tenali.

2. The aforesaid Interlocutory Applications were filed under Section 151 of the Code of Civil Procedure, 1908 to reopen the suit for adducing evidence of P.W.4 and to receive the documents for the purpose of marking through P.W.4. The said applications were allowed. Challenging the same, the present Civil Revision Petition is filed.

3. Learned counsel for the petitioner contended that after hearing the arguments on both sides, the suit was reserved for judgment, but the trial Court reopened the suit *suo moto* for hearing both sides on certain legal aspects and at that point of time, the present applications were filed; that no explanation was given for not examining respondent No.1 herein as a witness though she was examined as a witness in ATC and hence, he prays to dismiss the Civil Revision Petition.

4. Admittedly, respondent No.1 was a minor and after attaining the majority, the present applications were filed to examine herself as P.W.4 and to receive and mark some documents through her. Though her age was shown as 22 years, she was not aware of the proceedings pending before the Court below. Examination of a witness is entirely within the discretion of the Court, but, however, that discretion has to be exercised judiciously. The trial Court, after

considering the rival submissions made by both parties, came to the conclusion that the cist receipts and photographs are crucial documents to prove the case of respondent No.1. Therefore, there are no grounds to interfere with the impugned order. However, recalling of respondent No.1 and receipt of documents are subject to proof, relevancy and admissibility.

5. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this revision shall stand closed.

JUSTICE K.C.BHANU

MARCH 13, 2015

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DATE: 13.03.2015

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