

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL REVISION PETITION No.94 of 2013

-
Date:30.01.2015

Between:

Moola Surya Narayana Reddy

..... Petitioner.

AND

Chowda Subbamma (Died)
Represented by her L.Rs and
others.

.....Respondents.

The Court made the following :

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL REVISION PETITION No.94 of 2013

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ORDER:

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This revision is preferred against order dated
15-11-2012 in I.A.No.769/2012 in O.S.No.883/2007 on the
file of Principal Junior Civil Judge, Kadapa whereunder Court
below allowed petition to receive listed documents as
secondary evidence.

2. Heard arguments.

3. Advocate for revision petitioner mainly contended that the documents sought to be received are photo copies, therefore, they cannot be received. Advocate for revision petitioner contended that without placing any material as to the loss of original documents, secondary evidence cannot be received. It is further contended that photo copies are not admissible in evidence. Advocate for revision petitioner placed reliance on the decision of this Court in

Sama Venkata Subba Rao, Managing Partner of Babu and Company, Machilipatnam and another vs. Pillarisetti Venkata Venugopala Jagannadha Rao^[1].

4. On the other hand, advocate for respondents submitted that subsequent to this revision, I.A.No.173/2013 is filed and that petition was allowed and documents produced by the respondents herein are received subject to proof and relevancy and subsequently they were also marked as exhibits.

5. Now the point that would arise for my consideration in this revision is whether order of the court below is legal, proper and correct?

6. **Point:-** As seen from the material, the respondents herein filed I.A.No.769/2012 to receive documents as secondary evidence. As seen from the material,

respondents herein filed a petition summoning Tahsildar, Pendlimarri to produce original documents and to give evidence and that the Tahsildar, on receipt of summons, appeared before the Court and reported that the original documents summoned are not available in the office and he produced photo copies that are available in the office and on that ground, Court received those documents as secondary evidence as per Section 65 of the Evidence Act when the parties are able to show that the originals are not available, secondary evidence can be received that is how the trial Court received the documents. Therefore, the objection of the revision petitioner that photo copies cannot be received in evidence cannot be sustained when the respondents are able to show through the Government officials that the original documents that are summoned are not available in the office and the representative of the Government Office produced the photo copies. The learned trial judge rightly allowed the application and there are absolutely no incorrect findings in the order of the trial Judge dated 15-11-2012. In a revision, this Court can interfere only when some illegality is committed or wrong procedure is adopted by the trial Court, but as seen from the material, the trial Court has not committed any illegality nor adopted any wrong procedure in receiving the documents. Further, receiving documents is one aspect and admitting those documents in evidence is another aspect and every party has a right at the time of admitting them in evidence to raise their objection and the trial Court has to record that objection and decide whether

the objection is tenable or not and simply receiving documents would not amount to admitting them in evidence. From the submission of opposite advocate, it is clear subsequent to the impugned order under challenge, original documents are received as they are marked as exhibits.

7. For these reasons, I am of the view that the revision is liable to be dismissed as devoid of merits and there are absolutely no grounds to interfere with the findings of the trial Court.

8. Accordingly, revision is dismissed as devoid of merits. No costs.

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

JUSTICE S. RAVI KUMAR

Date:30.01.2015

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[\[1\]](#) 1995 (2) ALT 651