

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.3152 OF 2016

ORDER:

Heard the learned counsel for the petitioner.

2. The present Civil Revision Petition came to be filed challenging the order dated 31.03.2016 passed in Interlocutory Application No.434 of 2015 in Original Suit No.152 of 1993 on the file of the I Additional Junior Civil Judge, Madanapalle, Chittoor District, wherein and whereunder, petition filed by the petitioner/defendant No.18 to reject the chief examination affidavit of DW.1 was dismissed.

3. It is the case of the petitioner that defendant No.6 filed his chief examination affidavit as DW.1 and through him Exs.B.2 to B.5 were marked. It is said that while going through the copy of chief-examination affidavit of DW.1, it was noticed in para Nos.4 and 5 that DW.1 referred to certain alleged documents without either filing or exhibiting them in the course of his evidence and spoken to the facts of such documents. Hence the question of cross-examining the witness would not arise without there being documents produced along with chief evidence affidavit.

4. A counter came to be filed denying the averments in the petition and further contended that the petitioner was already set *ex parte* in the suit and he has no right to file the present petition questioning the validity of the chief evidence affidavit of DW.1

5. The entire chief examination affidavit of the petitioner

cannot be rejected merely on the ground that he has spoken to certain facts of some documents, which are not filed. However, as observed by the trial Court, the petitioner can take advantage of the same and cross-examine DW.1 with regard to contents of the chief examination affidavit. In fact, it is advantageous to the petitioner if the chief evidence affidavit of DW.1 is not substantiated by any documentary evidence. Having regard to the request made, the trial Court shall dispose of the suit as early as possible since the suit is of the year 1993.

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

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JUSTICE C. PRAVEEN KUMAR

Date:29.06.2016
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