

THE HON'BLE SRI JUSTICE S.V.BHATT

CIVIL REVISION PETITION No.1647 OF 2016

ORDER:

Plaintiff in O.S.No.138 of 2006 in the Court of Junior Civil Judge, Atmakur, is the revision petitioner.

2. Respondents filed I.A.No.251 of 2015 to recall P.W.3 for cross-examination. On 25.11.2015, the said application was allowed. The trial Court issued witness summons under Order 16 Rules 1 and 5 of the Civil Procedure Code. The petitioner in the instant revision petition challenges the issue of summons calling upon P.W.3 to attend the Court for cross-examination.

3. Learned counsel for the petitioner submits that in the very same matter, at the instance of the parties, an Advocate Commissioner was appointed to record the evidence of P.W.3 and the same arrangement can be made, P.W.3 is prepared to bear the expenses also and cooperate for cross-examination.

4. The trial Court through order dated 25.11.2015 in I.A.No.251 of 2015 ordered for recall and cross-examination and in pursuance thereof, the impugned summons are issued. The revision petitioner challenges the summons. Firstly, I am unable to appreciate how a revision for the mere issuance of summons to a witness to appear in the Court for cross-examination is maintainable and secondly, the decision to recall P.W.3 was taken in I.A.No.251 of 2015 and the challenge to issuance of summons independently is not tenable. Once the summons are issued the witness is obliged to attend the Court and give evidence.

For the above reasons, the civil revision petition fails and accordingly, dismissed. As a sequel, the miscellaneous applications,

if any pending, shall stand closed. There shall be no order as to costs.

S. V. BHATT, J

April 1, 2016
DSK