

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.3592 OF 2016

ORDER:

This civil revision petition, under Article 227 of the Constitution of India, is filed challenging the Order, dated 30.03.2016 in O.S. No.669 of 2008, passed by the IX Additional Chief Judge, Hyderabad.

02. The respondent/plaintiff, during trial, tendered certain documents along with affidavit filed under Rule 4 (2) of Order XVIII of the Code of Civil Procedure, 1908 (for short, 'CPC') in lieu of examination-in-chief and mark them as exhibits on their behalf. Thereupon the revision petitioner/defendant filed objections specifically contending about the inadmissibility of those documents tendered in chief-examination, relied on the Judgment of this Court in **K.BHASKAR RAO v. K.A. RAMA RAO**^[1] and the objections are as follows:

“1) In so far as the letters returned under Sl.No.7,8 and 12 which has been filed by the plaintiff as Document Nos.7,8 and 12 vide her list of document dated 14.11.2008 is concerned, the same relates to the information furnished by concerned government department under Right to Information Act. It is submitted that as per settled legal principles any such communication issued by any of the Government Department is merely in the nature of information and as such cannot be considered as a document admissible in evidence. The said law has been laid down by the Hon'ble High Court of A.P. in the Judgment rendered in K. Bhaskar Rao vs. K.A. Rama Rao reported in 2010(5) ALD page 339.

2) In so far as the report of the Defendant which is alleged to have been relating to media report filed as document No.14 along with the above said list and described at Sl.No.14 of the memo, the same is admittedly a Xerox copy and as such inadmissible in evidence.

3) In so far as the Compact Disc filed and marked by the plaintiff is concerned, the plaintiff has to necessary follow the procedure as provided under Section 65B of the

Indian Evidence Act and settled legal principles laid down by the Hon'ble Supreme Court from time to time in that regard. The concerned person who is claimed to have taken the alleged videography alone would be competent to mark the said compact disc. No affidavit as contemplated under Section 65B of the Indian Evidence Act has been filed before this Hon'ble Court and as such also the said compact disc cannot be received and marked in evidence.

4) In so far as the documents marked as Exs.A.1 and A.2 are concerned, the defendant has already made submissions in so far as objection raised in respect of the same. It is settled legal position that a newspaper or contents of the newspaper cannot be admissible, the same being per-se hearsay. It is further respectfully submitted and as per the settled legal principle cutting of a newspaper cannot be filed and received in evidence and if the contents of the newspaper is sought to be relied upon, complete newspaper has necessary to be filed and therefore Exs.A.1 and A.2 as marked are also inadmissible in evidence.”

03. The trial court passed a cryptic order running into 18 lines and in the entire order none of the objections raised and referred above are neither adverted to nor dealt with by the trial court and passed order based on any reasoning, but passed the order while observing that marking of those documents would not cause any prejudice to the objector and the objector/ defendant has a right to cross-examine the witness and those letters are within the knowledge and issued by the Section Officer, but rejected the compact disc as it is inadmissible in the present form. However, it is clear from the order that the trial court did not deal with any of the objections and recorded the reasons, while dealing with such objections and rejecting the objections. Therefore, the order passed by the trial court is bereft of any reasons to receive and mark them as exhibits.

04. Hence, a cryptic order passed by the trial court is set aside while directing the trial court to decide the objections afresh and deal with each and every objection and to pass a reasoned order

regarding the admissibility of the documents tendered along with affidavit under Rule 4(2) of Order XVIII of CPC in lieu of examination in chief.

05. With the above observation, the revision petition is disposed of. No costs.

06. Miscellaneous petitions, if any, pending in this civil revision petition shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 26.08.2016

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[\[1\]](#) 2010(5) ALD page 339