

HON'BLE SRI JUSTICE RAMESH RANGANATHAN

CIVIL REVISION PETITION NO.907 OF 2016

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ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the Principal Junior Civil Judge, Visakhapatnam in I.A. No.93 of 2016 in O.S. No.96 of 2015 dated 28.01.2016. The application in I.A. No.93 of 2016 was filed under Order 26 Rule 3 & 4 read with Section 151 of CPC to appoint an advocate commissioner to record the evidence of Dr. Srinivas Rao, Professor of Civil Engineering, Department of Civil Engineering, Andhra University to mark his report as Ex.A-12 in the Suit.

By the order under revision, the Court below rejected the application holding that the reasons mentioned in the petition, for examining the witness on commission, were not tenable; the witness was an Assistant Professor in Andhra University; every Government employee had their duties to discharge; a Professor or a Government employee could not be heard to contend that he was pre-occupied with other programmes and he would not, thereby, be able to attend the Court; the intended witness possessed knowledge in civil engineering, and would speak in technical terms; and, as the distance of the University was hardly three kms from the Court, there was no merit in the petition for appointment of an Advocate Commissioner to record the evidence of the said proposed witness.

Whether a witness should be examined on commission, or in the Court, are all matters in the discretion of the Court below. Save substantial injustice being caused to the petitioner, or a patent illegality in the order under revision, this Court would refrain from exercising its supervisory jurisdiction under Article 227 of the Constitution of India. The order of the Court below does not suffer from any such infirmity necessitating interference.

The Civil Revision Petition fails and is, accordingly, dismissed. The

miscellaneous petitions pending, if any, shall also stand dismissed. No costs.

RAMESH RANGANATHAN, J

Date: 22.04.2016.
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