

THE HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.No.2730 OF 2016

ORDER:

Fourth defendant in O.S.No.6 of 2008 is the revision petitioner. The revision is directed against the docket order dated 31.03.2016. The docket order reads thus:

“On perusal and after hearing both sides parties the Ex.A-1 is already marked though subject to proof and relevancy. Hence as Ex.A-1 is already marked its objection with regard to the stamp duty and penalty and admissibility would be decided at the time of judgment. Hence I think it is appropriate to proceed with the trial. For cross of P.W.1, call on 9.6.2016”.

Hence, the revision.

Heard the counsel appearing for the parties.

The order impugned in the revision firstly is a non-speaking order. Secondly, Mr.M.Ram Mohan counsel appearing for the petitioner draws the attention of the Court to the deposition of P.W.1 dated 07.03.2013, which reads thus:

“.....A-1, A-7 and A-8 marked subject to
summoning
the original documents”

From the above statement it is clear that Ex.A-1 is not marked subject to proof and relevancy, as observed by the trial Court. For all purposes, it is clear that the original has to be summoned and not that Ex.A-1 is marked subject to proof and relevancy. Further, the order impugned in the revision is a non-speaking order and the order is liable to be set aside. This Court, having regard to endorsement dated 07.03.2013, keeps open for consideration the objection raised by revision petitioner.

Mr.M.Ram Mohan relies upon the decisions reported in **JUPUDI KESAVA RAO v. PULAVARTHI VENKATA SUBBARAO AND**

OTHERS^[1], SHEIKH QUTUBUDDIN AND ANOTHER v. GOLI
VISHWANATHAM AND OTHERS^[2], BOGGAVARAPU NARASIMHULU
v. SRIRAM RAMANAIAH AND OTHERS^[3], B.V.RAMANA REDDY AND
OTHERS v. CEYLON AND INDIA GENERAL MISSION CHURCH
HINDUPUR, HINDUPUR^[4] a n d G.SUKENDER REDDY v.
M.PULLAIAH^[5] and contends that the objection ought to have been
decided without deferring the objection to a future date. This Court is
satisfied that the very basis referred in the order impugned in revision
is unsustainable and the order impugned can be set aside.

The revision is, accordingly, allowed. The order impugned is set
aside and the matter is remanded to trial Court for consideration of
objection of revision petitione,r when the document is produced. There
shall be no order as to costs.

Consequently, pending miscellaneous petitions, if any, stand
closed.

S.V.BHATT, J

Date: 19.07.2016

Lrkm

^[1] AIR 1971 SC 1070

^[2] 2014(2) ALD 329

^[3] 2014(2) ALD 426

^[4] 2015(2) ALD 183

^[5] 2015(4) ALD 194