

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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Civil Revision Petition No.669 of 2016

ORDER:

This revision is preferred against the order passed by the X Additional District Judge, Anakapalle, Visakhapatnam District in I.A.No.1189 of 2015 in A.S.No.101 of 2006 dated 12.11.2015. The petitioner herein is the 1st respondent in the appeal. The respondents herein filed I.A.No.1189 of 2015 seeking permission of the Court to receive the documents listed along with the application as evidence in the appeal. Even before the appeal was finally heard, the Court below allowed the I.A on costs; and permitted the documents, enclosed to the application, to be received as evidence in the appeal.

Smt. T.V.Sri Devi, Learned Counsel for the petitioner, would draw attention of this Court to the judgment in **State of Rajasthan v. T.N.Sahani**^[1], wherein the Supreme Court held that an application to receive evidence at the stage of appeal, under Order 41 Rule 27 CPC, should be decided along with the main appeal, and not prior thereto. As the appeal is still pending adjudication before the Appellate Court, the I.A to receive additional evidence could not have been decided, save along with the appeal itself. The impugned order is set aside. The I.A is restored to file. The Court below shall consider the said I.A along with the main appeal, in accordance with law.

Sri M.Radhakrishna, Learned Counsel for the respondents, would submit that the I.A was erroneously filed under Order 7 Rule 14-A CPC instead of Order 41 Rule 27 CPC. Correction of the provision, as referred to in the application, can be sought by way of an application before the Court below. It would be wholly inappropriate for this Court to make any such corrections in proceedings under Article 227 of the Constitution of India.

The Civil Revision Petition is, accordingly, disposed of. The Miscellaneous Petitions, if any pending, shall also stand dismissed. No costs.

(RAMESH RANGANATHAN, J)

Date:22.04.2016.

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[\[1\]](#) (2001) 10 SCC 619