

**THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY**

**CIVIL REVISION PETITION No.1476 OF 2016**

**ORDER:**

1 This Civil Revision Petition, under Article 227 of the Constitution of India, is filed challenging the common order dated 05.01.2016 passed in I.A.Nos.90 of 2015 and 91 of 2015 in O.S.No.750 of 2003 on the file of V Additional Senior Civil Judge (FTC), Ranga Reddy District at L.B. Nagar.

2 Heard the learned counsel for the petitioners.

3 A perusal of the record reveals that the petitioners have filed O.S.No.750 of 2003 on the file of V Additional Senior Civil Judge (FTC), Ranga Reddy District at L.B. Nagar against the respondents for cancellation of the sale deed vide registered document No.9326 of 2002 dated 19.10.2002. After completion of evidence on both sides, the respondents have filed I.A.No.90 of 2015 to reopen the suit and another I.A.No.91 of 2015 to summon one Kasim Peera in order to prove the recitals of Ex.A.1 sale deed and Ex.B.30 receipt. The petitioners have filed counter opposing the petitions. The trial Court, after affording reasonable opportunity to both parties, allowed the petitions by common order dated 05.01.2016. Hence the present Civil Revision Petition.

4 The predominant contention of the learned counsel for the petitioners is that Kasim Peera is neither a party to the suit nor a government servant, therefore, there is no necessity to examine him as a witness.

5 The burden of proof lies on the petitioners/plaintiffs to establish that Ex.A.1 sale deed is obtained by the defendants by playing fraud. In order to prove the recitals of Ex.A.1 sale deed, the petitioners have to examine one of the attestors to it. It is not in dispute that the said

Kasim Peera is one of the attestors of the registered sale deed Ex.A.1 and Ex.B.30 receipt. More so, the proposed witness is none other than the husband of the first petitioner and father of the second petitioner. In order to adjudicate the issue involved in the suit effectively, examination of said Kasim Peera is imperative. The very purpose of examination of the witness is to ascertain the necessary and relevant information in order to resolve the issue involved in the suit.

6 More over, for the reasons best known to them, the plaintiffs did not choose to examine the said Kasim Peera as one of the witnesses on their side. Even if the said Kasim Peera is examined as a Court witness, no prejudice would be caused to the petitioners who are plaintiffs in the suit.

7 The trail Court considered all these aspects in right perspective and allowed the petition. The findings recorded by the trail Court are supported by the material available on record. I am fully endorsing the findings recorded by the trail Court. There is no illegality or irregularity in the order passed by the trail Court, which warrants interference of this Court while exercising jurisdiction under Article 227 of the Constitution of India. The Civil Revision Petition lacks merits and bonafides and is liable to be dismissed.

8 In the result, the Civil Revision Petition is dismissed at the stage of admission. No order as to costs. Consequently, miscellaneous petition if any pending in this Civil Revision Petition shall stand closed.

*Date: 17<sup>th</sup> March, 2017*  
*Kysn*

T. SUNIL CHOWDARY, J