

HON'BLE SRI JUSTICE S.V.BHATT

C.R.P. No.3850 OF 2017

ORDER:

The plaintiff in O.S. No.6 of 2014 is the revision petitioner. The evidence of respondent herein was eschewed, for the respondent was not available or present for cross examination. The respondent filed I.A. No.587 of 2017 for appointment of Advocate Commissioner to record her cross examination. The learned trial Judge ordered the application. Hence the present C.R.P.

Mr.Ravi Kiran Rao contends that the orders where discretion is exercised by the trial Court particularly, Advocate Commissioner etc. appointed, this Court may not interfere under Article 227 of the Constitution of India. The objection he raised against the order impugned in the revision is that the comparison of affidavit dated 01.06.2017 of respondent herein with the reasons recorded by the trial Court would be sufficient to set aside the order and remit the matter to trial Court for consideration afresh. The further objection he points out is that if prayers with these types of allegations are accepted by the Courts of law then the right for such prayers is automatic and can be made as matter of course.

In spite of service of notice, none appears for respondent.

I have perused the record. Without much deliberation this Court expresses its view that the learned trial Judge would have done better if the affidavit is appreciated, and for any one of the

reasons some evidence is produced thereafter discretion is exercised. The order impugned in the revision is set aside and I.A. No.587 of 2017 is remitted back to trial Court for consideration and disposal in accordance with law, within four weeks from the date of receipt of a copy of this order.

The C.R.P. is ordered accordingly. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

Date:15.12.2017

Sp



S.V.BHATT,J