

HON'BLE SRI JUSTICE D.V.S.S. SOMAYAJULU

CIVIL REVISION PETITION No.4476 of 2013

ORDER:

This Revision is filed against the order dated 21.6.2013 passed in I.A.No. 266 of 2013 in O.S.No. 134 of 2011 by the learned II Additional Senior Civil Judge, Srikakulam.

I.A.No. 226 of 2013 is filed by the petitioner/plaintiff therein, to record her evidence at her residence on the ground that she was not well and doctors advised her not to move from the bed. This was opposed by the respondent. After hearing both the parties, the lower Court directed that the Advocate Commissioner should be appointed to record the cross-examination and re-examination of PW-1 in the Court complex instead of the residence of PW-1. Challenging the said order, the present Revision is filed.

Heard learned counsel appearing for both sides.

Learned counsel appearing for petitioner cited the judgment reported in **Salem Advocate Bar Association, T.N vs. Union of India**¹, and drew the attention of this Court to paragraph 5 of the said judgment, and he alleged that where there are serious allegations of fraud involved in the case the witness may be examined in open Court only. However,

¹ (2005) 6 SCC 344

this was not held to be mandatory in every case. Here there is no proof of serious allegations of fraud, as noticed by the Hon'ble Supreme Court of India in the above mentioned case.

Considering the scope of the present enquiry and also the provisions of Order 18 Rule 4 CPC, it is now permissible for an Advocate Commissioner to be appointed to record the evidence of the witness. The amendment to the CPC is made specifically for this purpose only.

In view of all of the above, there are no merits in the Civil Revision Petition and accordingly the same is dismissed. However, the lower Court is directed to proceed with the case on a priority in view of the fact that the suit is of the year 2011. As a sequel to the above order dismissing the CRP, miscellaneous petitions, pending if any, shall stand closed.

D.V.S.S. SOMAYAJULU, J

Date: 20.10.2017
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