

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

CIVIL REVISION PETITION No.5649 of 2017

ORDER:

Defendant, in O.S.No.13 of 2011 on the file of the IV Additional District Judge, Kurnool, is the petitioner in the present revision, filed under Article 227 of the Constitution of India.

Heard Sri N.Chandra Sekhar Reddy, learned counsel for the petitioner-defendant, and Sri Palle Sriharinath, learned counsel for the respondent, apart from perusing the material available before the Court.

In the present revision, challenge is to the order, dated 23.08.2017, passed by the said Court in I.A.No.252 of 2016. The respondent herein instituted the above said suit for damages, claiming a sum of Rs.21,00,000/- on the ground that he was maliciously prosecuted on the complaint of the defendant before the CBI Court, Hyderabad in C.C.No.24 of 2006. When the suit stood posted for further evidence of the defendant, the present application-I.A.No.252 of 2016 came to be filed, under the provisions of Order XIII Rule 10 CPC, seeking to issue summons to one Sri Md.Jaffar, who was the Investigating Officer in the above said criminal case, to examine him as a witness with a direction to him to come along with the C.D.file. The said application was contested by the plaintiff-respondent herein by way of filing a counter. The

learned Additional District Judge, by way of the order under challenge, dismissed the said application finding no merits in the said application. Hence, the present revision.

According to the learned counsel for the petitioner, the order impugned is erroneous and contrary to law. It is the further submission of the learned counsel that the petitioner herein sought for issuance of summons with an intention to establish his contention that the plaintiff was prosecuted in C.C.No.24 of 2006, after finding incriminating evidence against him. It is the further submission of the learned counsel that the Court below did not assign any reasons, muchless valid reasons, to dismiss the application.

On the contrary, it is the submission of the learned counsel for the plaintiff-respondent that there is no error in the impugned order, as such, the same is not amenable for any correction under Article 227 of the Constitution of India.

In the above background, now the issue that emerges for consideration of this Court is:

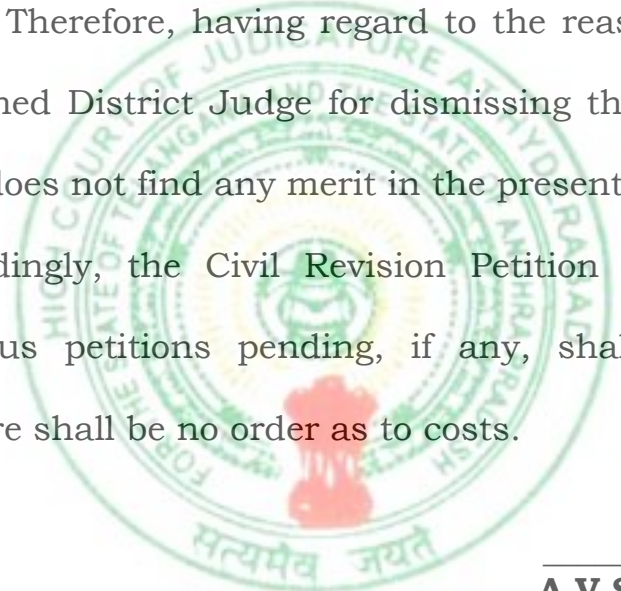
Whether the impugned order passed by the learned Additional District Judge warrants any interference of this Court, under Article 227 of the Constitution of India, and whether the same is sustainable and tenable?

In the affidavit, filed in support of the present application-I.A.No.252 of 2006, the defendant-petitioner herein stated that the C.D.file and investigation report are in the CBI Court. The learned Judge, in the impugned order,

categorically recorded that the C.D.file and also the deposition are all public documents and, if the petitioner wishes to get the same, he can obtain certified copies of the relevant documents. In this context, it may be appropriate to refer to Rule 129 of the Civil Rules of Practice.

Rule 129 of the Civil Rules of Practice deals with the production of records in the custody of a public officer other than a Court. The present application is also not in accordance with the provisions of Rule 129 of the Civil Rules of Practice. Therefore, having regard to the reasons recorded by the learned District Judge for dismissing the application, this Court does not find any merit in the present revision.

Accordingly, the Civil Revision Petition is dismissed. Miscellaneous petitions pending, if any, shall also stand closed. There shall be no order as to costs.



A.V.SESHA SAI, J

15th December, 2017
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