

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No.1150 of 2018

ORDER:

This Civil Revision Petition is filed against the order, dated 13.12.2017, passed by the learned VIII Additional District Judge, Ananthapuramu, dismissing I.A.No.421 of 2017 in O.S.No.103 of 2013, filed by the petitioner-defendant seeking to appoint an Advocate Commissioner to record his evidence.

The respondent-plaintiff filed the aforesaid suit for recovery of certain amount based on Exs.A1 and A2-promissory notes. The petitioner filed his written statement in the suit. He had also filed his affidavit-in-chief. At that stage, he filed the aforesaid I.A. for appointment of an Advocate Commissioner to record his cross-examination as he is suffering from knee pain. The respondent-plaintiff filed counter opposing the I.A. After considering the material on record, the trial Court dismissed the same.

Heard learned counsel for the petitioner.

A perusal of the impugned order discloses that the petitioner filed the present I.A. just two days before the date on which he is required to appear before the Court for his cross-examination. The trial Court having observed that the petitioner participated in a political party meeting as evident from the news item covered in Sakshi Daily Newspaper, dated 04.12.2017, which is appended to the counter filed by the

respondent, held that he is hale and healthy and is able to attend the Court for cross examination, and thereby dismissed the I.A.

Learned counsel for the petitioner urges before this Court that the petitioner has a phobia to appear before the Court and in the process, he may not be able to answer coherently.

It may be noted that giving evidence in the Court is a rule and the facility to appoint an Advocate Commissioner to record the evidence of a person is provided in the cases where there is absolute impossibility for the individual to appear before the Court to give evidence. Observation of demeanour of a witness is one of the important facets of the evidence, which will aid the Court in deciding the issue and exemption to appear before the Court cannot be granted in a routine manner. In view of the same and as the petitioner has not made out a case, the contention of the learned counsel for the petitioner is rejected, and the impugned order needs no interference by this Court.

Hence, the Civil Revision Petition is dismissed.

Miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand dismissed. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Dt:28.02.2018

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