

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.R.P.No.738 of 2018

ORDER:

This revision petition is filed under Article 227 of the Constitution of India assailing the docket order dated 27.01.2017 passed in I.A.No.8 of 2017 in O.S.No.5 of 2015 on the file of Principal Junior Civil Judge Court, Gudivada.

2. Heard the learned counsel appearing for both the parties and perused the material on record.

3. The point that arises for consideration is:

“Whether there is any illegality, irregularity and impropriety in the impugned order?”

4. A perusal of the record reveals that the respondent filed O.S.No.5 of 2015 against the petitioner on the file of Principal Junior Civil Judge Court, Gudivada, for recovery of the suit amount with future interest. During pendency of the suit, the petitioner filed I.A.No.8 of 2017 under Order VIII Rule 1(A)(3) and Section 151 CPC to receive the documents. The respondent filed counter *inter alia* contending that the petition is not maintainable.

5. The trial Court after considering the material available on record, allowed the petition. Hence, the revision.

6. To substantiate the arguments, learned counsel for the petitioner drawn the attention of Section 80 of the Indian Evidence Act, which deals with the presumption of the documents. He also drawn the attention of this Court to the decision in **G.Sukender**

Reddy V. M.Pullaiah¹ wherein at paragraph Nos.12 and 13 held as follows:

“12. Rule 115 deals with marking of exhibits and it reads as follows:

115. Marking of Exhibits: (1) Exhibits admitted in evidence shall be marked as follows:

- (i) If filed by the plaintiff or one of several plaintiffs, with the capital letter ‘A’ followed by a numeral A1, A2, A3 etc.
- (ii) If filed by the defendant or one of several defendants with the capital letter ‘B’ followed by a numeral, B1, B2, B3 etc.
- (iii) If Courts exhibits with the capital letter ‘C’ followed by a numeral C1, C2, C3 etc.,
- (iv) If third party exhibits, with the capital letter ‘X’ followed by a numeral X1, X2, X3 etc.,

(2) the exhibits filed by the several plaintiffs or defendants shall be marked consecutively.

(3) If in a proceeding subsequent to the trial of a suit or matter, further exhibits are admitted in evidence, they shall be marked in accordance with the above scheme with numbers consecutive to the number on the last exhibit previously filed.”

13. From a perusal of the above provisions, it is clear that it is incumbent on the parties to the suit to file the documents in their possession in the form of a list at the time of filing the plaint or the written statement, as the case may be. If they want to file any document(s) subsequently, they have to seek the leave of the Court. In this connection, the effect of non-production of documents, which was repealed by Act 46 of 1999 with effect from 01.07.2002, should also be taken note. By virtue of the said repeal, for the effect of non-production of documents, one has to look into sub-rule (3) of Rule 14

¹ 2015(4) ALD 194

of Order VII CPC, which is already extracted above. The plaintiff or defendant is not precluded from filing the documents at a later stage. But he has to seek leave of the Court in order to receive those documents in evidence.

7. The above decision deals with the procedure to be followed while marking the documents filed by both parties. The decision cited above is not applicable to the facts of the case on hand.

8. It is not the case of the petitioner that the trial Court has wrongly marked the documents. The petitioner filed the petition to receive the documents. The trial Court allowed the same. In fact, the trial Court passed the order in favour of the petitioner. The only contention raised by the learned counsel for the petitioner is that the trial Court ought not to have used the word 'subject to proof and relevancy' while allowing the petition.

9. It is a fundamental principle of law, no court place reliance on any document without proof and relevancy. Proof of document is something different to that of relevancy. The trial Court considered the scope of Indian Evidence Act and allowed the petition. I am unable to accede to the contention of the learned counsel for the petitioner that the trial Court committed error while making an observation that the documents are received subject to proof and relevancy. The trial Court has assigned reasons much less cogent and valid reasons to its findings. I am fully endorsing with the findings recorded by the trial Court. There is no illegality, irregularity or impropriety in the orders of the trial Court warranting interference of this Court, while exercising the

jurisdiction under Article 227 of the Constitution of India.

Hence, the petition is liable to be dismissed.

10. In the result, the Civil Revision Petition is dismissed.

There is no order as to costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

T.SUNIL CHOWDARY, J

Dt:21.12.2018

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