

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.4082 OF 2015

ORDER:

Heard Sri Ch.B.R.P. Sekhar, learned counsel for the revision petitioners - defendants, and Sri Karan Talwar, learned counsel for the respondent - plaintiff.

2. Precisely, the revision petitioners - defendants questioning the docket order, dated 11.09.2015, which is also a speaking order, passed in O.S. No.396 of 2006 by the Principal Junior Civil Judge, Nuzvid, preferred the present revision under Article 227 of the Constitution of India on the ground that PW.1, who is not a party to the suit, is not a competent witness to mark the documents for want of knowledge.

3. The learned counsel for the revision petitioners would submit that the respondent - plaintiff ought not to have permitted PW.1 to be examined who is not confronted with the document which is sought to be admitted through him as he has no chance to gain knowledge or acquaintance with regard to the contents of the said documents and the trial Court, somehow, went wrong in permitting PW.1 to exhibit the document.

4. The learned counsel for the respondent - plaintiff would submit that there is no infirmity in the order passed by the trial Court

and it is always open to a party, without examining himself/herself as a witness can examine others and there is no embargo to examine others and through him/her to mark documents and in the present case since PW.1 was looking after the suit schedule property and managing it, the trial Court allowed PW.1 to mark the document.

5. The mandate of provisions of Order XVIII, Rule 3A of the Code of Civil Procedure, 1908 (for short 'Code') is very specific that in case party -witness reserves right to examine later after examining the witness/witnesses, the party witness can be examined later with the permission of the Court. The first paragraph of the order under challenge would show that respondent - plaintiff filed a memo stating that she was not going to examine herself as a witness in the suit and, therefore, she examined PW.1. In such an event, certainly, there cannot be any objection for examination of PW.1 as a witness since the respondent - plaintiff did not incline to examine herself as a witness.

6. Turning to the objection in regard to marking of document raised before the trial Court, the trial Court rightly observed that as long as document is not inadmissible, the same cannot be refused or rejected at the time when it is sought to be marked on the mere allegation that the party does not possess knowledge as to the contents of the said document. The said objection raised by the defendants can be examined in detail at the final stage of the suit proceedings and

giving such a right to the revision petitioners - defendants, the present CRP is disposed off. The learned Principal Junior Civil Judge, Nuzvid, shall also take into consideration the submissions now made during the arguments that would be advanced touching the present objection raised by the revision petitioners - defendants to answer the same at the final stage of the suit proceedings as there is no contravention or violation of the provisions of Order XVIII, Rule 3A of the Code.

7. With the above observation the present CRP is disposed of.
No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the revision, stand closed.

April 16, 2018.
Mgr

A. SHANKAR NARAYANA, J