

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

CIVIL REVISION PETITION No.7 of 2014

ORDER:

This civil revision petition is filed questioning the order, dated 12.11.2013, passed in I.A.No.39 of 2013 in Appeal Suit No.17 of 2009, by the I Additional District Judge, Karimnagar.

I.A.No.39 of 2013 was filed under Order 41 Rule 27 CPC to receive a document as further evidence in the appeal. The said application was dismissed by the impugned order, dated 12.11.2013. Questioning the same, the present revision petition is filed.

This court has heard Ms.Pallavi, junior counsel, representing Sri M.Ram Mohan Reddy, learned counsel for the petitioner and Sri P.V.Narayana Rao, learned counsel for respondent No.1.

Learned junior counsel, representing Sri M.Ram Mohan Reddy, states that as the application filed under Order 41 Rule 27 CPC, it can only be considered and decided at the time when the main appeal is to be heard. She also relies upon the judgment of the Hon'ble Supreme Court in *State of Rajasthan v. T.N.Sahani and others*<sup>1</sup> and states that the application should be decided along with the appeal only.

In reply thereto, the learned counsel for respondent No.1 states that while the position of law is correct, the present petitioner has not raised this plea in the lower court and that he cannot be permitted to raise the same now. Hence, he prays the court to dismiss the revision petition.

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<sup>1</sup> (2001) 10 SCC 619

This court, after hearing the learned counsel, is of the opinion that the law on the subject is well settled. Additional evidence can only be considered at the time of final hearing of the appeal. If the court is convinced that the additional evidence is necessary for the purpose of pronouncement of final judgment, they only the application can be considered and/or allowed. The position of law is clear and beyond any doubt.

This court is of the opinion that the impugned order that was passed is totally erroneous and therefore, the same is set aside. Both the learned counsel submit that the appeal is still pending before the IX Additional District Judge, Sirisilla, which is a newly established court. Both the learned counsel submit that as the appeal is old one there is urgency. Therefore, the IX Additional District Judge, Sirisilla is directed to dispose of the appeal, as early as possible. The application to receive additional evidence will have to be considered on its own merits.

The civil revision petition is accordingly allowed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

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D.V.S.S.SOMAYAJULU,J

Date: 15.11.2018  
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