

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY
CIVIL REVISION PETITION No.7220 OF 2017

ORDER:

1 This Civil Revision Petition is filed under Article 227 of the Constitution of India aggrieved by the order dated 16.11.2017 passed in O.S.No.12 of 2014 on the file of the Court of the Judicial Magistrate of First Class, Sidhout, YSR Kadapa District.

2 In spite of service of notice, the respondent did not choose to appear and contest the matter. Hence this Court is inclined to pass orders basing on the merits of the case.

3 Heard the learned counsel for the petitioner.

4 A perusal of the record reveals that the petitioner filed O.S.No.12 of 2014 on the file of the Court of the Junior Civil Judge, Sidhout, YSR Kadapa District seeking perpetual injunction against the respondent and one Gurramkonda Subbarayudu. After completion of plaintiff's side evidence, the matter was posted for defendant's side evidence. At that stage, one M.Anjaneyulu filed affidavit in I.A.No.270 of 2017 in O.S.No.12 of 2014 under Order VIII Rule 3 r/w section 151 CPC praying the trial Court to receive certain documents. After affording reasonable opportunity to both sides, the trial Court allowed the said petition. Hence the present revision by the plaintiff.

5 A perusal of the record reveals that one M.Anjaneyulu filed affidavit in I.A.No.270 of 2017 seeking permission of the court to receive certain documents. In the petition the name of the respondent herein is shown as petitioner / defendant. Admittedly, the said Anjaneyulu is not a party to the proceedings. The said Anjaneyulu is intending to examine himself as one of the witnesses on

defendant's side. Whether a witness is entitled to produce documents has to be considered by the Court basing on facts and circumstances of each case. In the case on hand, the trial Court made an observation that the said Anjaneyulu has no *locus standi* to file documents. The trial Court, having arrived at such a conclusion, ought to have dismissed the petition. The trial Court has not assigned reasons much less cogent and valid reasons how the documents sought to be received are relevant to decide the *lis* involved in the suit. Simply because the said Anjaneyulu is intending to enter into the witness box that itself is not a valid ground to allow the petition to receive documents. The trial Court has to give a specific finding whether the documents sought to be filed will throw some light on the *lis* involved in the suit. The Court allowed the petition solely on the ground that even if the petition is allowed, no prejudice will be caused to the petitioner/plaintiff. The trial Court has not considered the discrepancy between affidavit and petition in I.A.No.270 of 2017 with regard to the cause title. The case of the said Anjaneyulu is that he is the owner of the suit schedule property. If that is so, the remedy available to him is otherwise. The trial Court has not considered the affidavit filed by the said Anjaneyulu in right perspective and allowed the petition on assumptions and presumptions. If the order passed by the trial Court is allowed to stand, it would certainly amount to miscarriage of justice.

6 Taking into consideration the facts and circumstances of the case, I am of the considered view that the order passed by the trial Court is liable to be set aside.

7 In the result, this Civil Revision Petition is allowed, setting aside the order dated 16.11.2017 passed in O.S.No.12 of 2014 on the file of the Court of the Judicial Magistrate of First Class, Sidhout, YSR Kadapa District. No order as to costs. As a sequel, miscellaneous petitions if any pending in this revision petition shall stand closed.

T. SUNIL CHOWDARY, J.

Date: 29.03.2018

Kpsn

