

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.3992 of 2015

ORDER :

This Civil Revision Petition is filed challenging the docket order dt.26.08.2015 on the file of the Chief Judge, City Civil Court, Hyderabad in O.S.No.582 of 2008.

2. The petitioner herein is defendant in the said suit which was filed by respondent against petitioner seeking damages of Rs.50 lakhs for alleged defamatory statements made by petitioner against respondent, who is a former Member of Parliament.

3. The impugned docket order states as under :

“PW.1 present and confronted affidavit in chief. Exs.A.1 to A.14 marked. Sri D. Chandra Sekhara Prasad, Advocate is appointed as Commissioner to record cross-examination of PW.1 after giving notice to both counsels. His fee is fixed at Rs.750/-. For Report call on 07.09.2015.”

4. It is the contention of counsel for petitioner that the Court below could not have mechanically marked Exs.A.1 to A.14 in the absence of the counsel for petitioner or the petitioner without examining the admissibility or relevancy of Exs.A.1 to A.14.

5. The appointment of an Advocate-Commissioner to record the cross-examination of PW.1 is also objected to, stating that no application for that purpose was filed by the respondent; and that the Court below, in the facts and circumstances of the case, should have exercised great circumspection in entrusting the job of cross-examining PW.1 to an Advocate-Commissioner.

6. Though the counsel for respondent sought to contend that the marking of Exs.A.1 to A.14 were done in the presence of counsel for petitioner, the Docket Order does not disclose the same. Therefore, it has to be presumed that Exs.A.1 to A.14 were marked by the Court in the absence of counsel for petitioner.

7. As regards appointment of an Advocate-Commissioner to record evidence, the counsel for respondent stated that he had no objection for cross-examination of PW.1 in the Court.

8. Therefore, the docket order dt.26.08.2015 on the file of the Chief Judge, City Civil Court, Hyderabad in O.S.No.582 of 2008, is set aside. The said Court is directed to decide the objections of petitioner to the admissibility of Exs.A.1 to A.14, and then only mark them. It shall record the cross-examination of PW.1 and other witnesses adduced by the respondent as well as the petitioner in the open Court only.

9. Accordingly, the Civil Revision Petition is allowed. No order as to costs.

10. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 13.03.2019

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