

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.764 of 2016

O R D E R:

Heard both sides.

2. This Revision is filed under Article 227 of the Constitution of India challenging the order dt.16.11.2015 in I.A.No.298 of 2015 in A.S.No.330 of 2010 of the X Additional District & Sessions Judge(FTC), at L.B.Nagar, Rangareddy District, allowing the said application of the 1st respondent, who was appellant in above appeal on the file of the said Court, filed under Order XLI Rule 27 CPC and permitting the 1st respondent to lead additional evidence in the appeal.

3. Counsel for the petitioner contended that an application under XLI Rule 27 CPC has to be considered/heard on merits at the time of final hearing of the appeal at a stage when, after appreciating the evidence on record, the Court reaches the conclusion that additional evidence was required to be taken on record in order to pronounce the judgment or for any other substantial cause. He relied on the judgment of the Supreme Court in ***Union of India v. Ibrahim Uddin and Another***¹ in support of the said proposition.

¹ 2012(8) SCC 148

4. This legal position is not disputed by the counsel for 1st respondent.

5. He also did not dispute that when the application I.A.No.298 of 2015 was decided by the Court below, the appeal had not been taken up for arguments on merits.

6. In this view of the matter, having regard to the principle laid down in **Ibrahim Uddin's** case(1 supra) that an application for taking additional evidence on record at an appellate stage, even if filed during the pendency of appeal, is to be heard at the time of final hearing of the appeal at a stage when after appreciating the evidence on record, the Court reaches the conclusion that additional evidence was required to be taken on record in order to pronounce the judgment or for any other substantial cause, the impugned order cannot be sustained.

7. Accordingly, the order dt.16.11.2015 in I.A.No.298 of 2015 in A.S.No.330 of 2010 of the X Additional District & Sessions Judge(FTC), at L.B.Nagar, Rangareddy District, is set aside, and the said Court is directed to decide the said I.A., at the time when it is taking up the final hearing of the appeal after appreciating the evidence on record. All other contentions are left open to be raised in the said Court.

8. The Civil Revision Petition is accordingly allowed. Interim order granted in the Revision stands vacated. No order as to costs.

9. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

22nd April, 2019.

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