

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THURSDAY, THE FIFTEENTH DAY OF APRIL
TWO THOUSAND AND TWENTY ONE**

PRESENT

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION NO: 995 OF 2020

Petition under Article 227 of the Constitution of India, aggrieved by the Order dated.10.08.2020 passed in I.A.No.68 of 2020 in O.S.No.220 of 2015 on the file of the Court of the Junior Civil Judge, Nidamanoor, Nalgonda District.

Between:

Chavva Brahmananda Reddy, S/o. Late Veera Reddy, Age about 64 years, Occ. Agriculture, R/o H.No.2-617 (New Number), (Old Number) H.No.2-292/A, Sagar Road, Haliya, Anumula Mandal, Nalgonda District.

...Petitioner/Defendant

AND

Kakumanu Ramesh, S/o. Ankarao, Aged about 45 years, Occ. Business, R/o. Vasavi Arcade Apartment, Flat No. 103, Vasavi Colony, Kothapet, Hyderabad, Ranga Reddy District.

...Respondent/Plaintiff

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to stay all proceedings in I.A.No.68 of 2020 in O.S.No.220 of 2015 on the file of Court of Junior Civil Judge, Nidamanoor, till the disposal of the above CRP, in the interest of justice.

Counsel for the Petitioner: SRI M. A. K. MUKHEED

Counsel for the Respondent: SRI KIRAN PALAKURTHI

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No.995 of 2020

ORDER:

This Civil Revision Petition is filed against the order 10.08.2020 passed by the Junior Civil Judge, Nidamanoor, in I.A.No.68 of 2020 in O.S.No.220 of 2015.

Heard the learned counsel for the petitioner/defendant, and Sri Kiran Palakurthy, learned counsel for the respondent/plaintiff.

It is a case where the defendant filed an application invoking Order XVI Rule 7 of Code of Civil Procedure seeking issuance of summons to one K. Anka Rao for the purpose of giving evidence with respect to document Ex.B-28 on the ground that K. Anka Rao was the scribe of the document Ex.B-28. The application was opposed by the plaintiff.

It is not necessary for this Court to delve deep into the matter and record the reasons as to in what manner the application was dealt by the learned Junior Civil Judge. Suffice it to state that the learned Junior Civil Judge went on to discuss the merits of the matter, and more particularly, a reference was made in the pleadings with respect to the said document Ex.B-28.

There is no dispute that the document *per se* was not mentioned in the written statement, however, there being a mention in the written statement with respect to agreement among the parties and a resolution having been made, it is not necessary that the evidence is required to be mentioned in the written statement. As the petitioner apprehended that the scribe of the document Ex.B-28, which was already on record, may not cooperate to come forward to give evidence on his behalf, as a matter of abundant caution, he made an application before the Court seeking the Court to summon the said witness K. Anka Rao. It may be

noticed that the application was made invoking Order XVI Rule 1 and not under Order XVI Rule 7 of CPC as mentioned by the learned Junior Civil Judge in his order. The very discussion of merits of the matter is an irregularity committed by the learned Junior Civil Judge.

There being no dispute with respect to Ex.B-28 being on record and that K. Anka Rao was the scribe of the said document, the dismissal of the application made by the petitioner is unsustainable.

Accordingly, the civil revision petition is allowed, by setting aside the impugned order dated 10.08.2020. No costs. Miscellaneous petitions, if any pending, shall stand closed.

//TRUE COPY//

SD/-V.SUDHA
ASSISTANT REGISTRAR



SECTION OFFICER

To,

1. The Junior Civil Judge, Nidamanoor, Nalgonda District.
2. One CC to Sri M. A. K. Mukheed, Advocate [OPUC]
3. One CC to Sri Kiran Palakurthi, Advocate [OPUC]
4. Two CD Copies

MMK
gbr



HIGH COURT

DATED: 15/04/2021

ORDER

CRP.No.995 of 2020



ALLOWING THE CIVIL REVISION PETITION

ATM 5
18/5/2021