

HIGH COURT OF ANDHRA PRADESH
MAIN CASE: C.R.P.No.1432 OF 2023
PROCEEDING SHEET

SL. NO.	DATE	ORDER	OFFICE NOTE
01.	27.06.2023	<p><u>RNT, J</u></p> <p>This civil revision petition under Article 227 of the Constitution of India has been filed challenging the Order dated 26.04.2023, passed in I.A.No.211 of 2023 in pending O.S.No.106 of 2016, on the file of Additional Junior civil Judge at Puttur.</p> <p>2. The plaintiff petitioner filed the I.A. with a prayer to reopen the case for purpose of cross-examine of D.W.1 and D.W.2.</p> <p>3. Learned counsel for the petitioner submits that the examination of the witnesses is being conducted by issuing the Advocate Commissioner. He submits that 02.04.2023 was the date fixed for recording of the evidence. The evidence of P.W.2 was recorded and the evidence of D.W.1 commenced, during which plaintiff's counsel objected to marking of certain documents of D.W.1, requesting the Advocate Commissioner to record the objections. At that stage, the defendants 1 and 2 and their counsel extended threat with dire consequences and the said attitude was not changed, in spite of the advise of the</p>	

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		<p>Advocate Commissioner. It became very difficult to record the examination before the Advocate Commissioner. The petitioner submitted a memo to the Advocate Commissioner, a copy of which is annexed at page 42 of the petition, requesting to return the warrant to the Court and to permit the petitioner to cross examine D.Ws.1 and 2 in the public court. The Commissioner also submitted its report (at page-44 of the petition) to the Court, referring to the memo filed by the petitioner, and also returning the commission warrant, with the enclosures, that the commission warrant was partly executed.</p> <p>3. Thereafter, the petitioner filed I.A.No.211 of 2023 in Court, which has been rejected by observing as under:</p> <p>“on perusing the rival contentions of both parties, this Court gave several opportunities to the petitioner/plaintiff to cross-examine D.Ws.1 and 2, the petitioner could not cross-examine D.Ws.1 and 2 for the reasons best known to the petitioner/plaintiff, in view of the facts and circumstances of the case, this Court is not inclined to allow the petition.”</p> <p>4. <i>Prima facie</i>, in view of the submissions advanced, the report of the Advocate</p>	

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		<p>Commissioner, and the memo filed by the petitioner, the matter requires consideration at depth, with opportunity to the respondents, to ensure fair and transparent trial.</p> <p>5. Issue notice to the respondents.</p> <p>6. In addition to the normal mode of service, the petitioner is permitted to take out personal notice for service through registered post with acknowledgment due and file proof of service before the next date.</p> <p>7. Post on 28.07.2023.</p> <p>8. Learned counsel for the petitioner submits that the suit was fixed on 26.06.2023 and now it is posted in the next week.</p> <p>9. Till the next date of listing, further proceedings in O.S.No.106 of 2016, on the file of Additional Junior Civil Judge at Puttur shall remain stayed.</p> <p>10. The order of the trial Court pursuant to which the evidence is being recorded on commission, shall also be produced before this Court.</p> <p style="text-align: right;">_____ RNT,J</p> <p>Gk</p>	