

THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI

CIVIL REVISION PETITION NO.167 OF 2023

ORDER:

The present Revision Petition is filed by the petitioner under Article 227 of the Constitution of India, aggrieved by the Order dated 29.11.2022 in I.A.No.752 of 2022 in O.S.No.506 of 2016 on the file of the learned I Additional Senior Civil Judge, Nellore, SPSR Nellore District.

2. The petitioner herein is the Plaintiff and the respondent herein is the Defendant in O.S.No.506 of 2016, which is filed for permanent injunction. In the said Suit, plaintiff filed I.A.No.752 of 2022 seeking the following relief:

“(a) Appoint an Advocate Commissioner to record the cross examination of P.W.2 including marking of the documents at his residence at Nellore or at a place in BAR Association, Nellore and to submit the same to this Hon'ble Court to decide the matter on merits for appreciation of evidence and justice;

(b) Grant such other or further reliefs deemed fit and proper under the circumstances of the case may be granted.”

3. Heard Sri Siva Prasad Reddy Venati, learned counsel for the petitioner.

4. The learned counsel, in elaboration contended that the petitioner is aged 85 years and as such, he filed an application for appointment of an Advocate Commissioner to record his evidence.

He further submitted that, now-a-days the Courts are appointing Commissioners for the purpose of recording cross-examination without there being any request or petition. In such circumstances, dismissing the present application is unjustified. As such, the present C.R.P. is filed and prayed to pass appropriate orders in this regard.

5. Perusal of the record goes to show that the present Interlocutory Application is filed by the plaintiff seeking to appoint an Advocate Commissioner to record the cross-examination of PW2, including marking of the documents at his residence at Nellore or at a place in BAR Association, Nellore and to submit the same to the Court. The said Application has been dismissed by the Court below on the ground that the petitioner/plaintiff except pleading that he is unable to move due to advance age of 85 years, nothing is pleaded and moreover, as pointed out by the respondent/defendant that, when the plaintiff is willing to attend the BAR Association, Nellore, to record his evidence, he can as well attend the Court.

6. In these circumstances, this Court is of the view that when the plaintiff is ready to come to the BAR Association to give evidence, he can as well come to the Court to adduce evidence and in such circumstances, the advance age of the petitioner cannot be considered. Therefore, the Court below has rightly dismissed the said Application.

As this Court does not find any illegality or impropriety in the impugned order and as no valid grounds are raised by the petitioner/plaintiff warranting interference of this Court, the Revision Petition is liable to be dismissed.

Accordingly, the Revision Petition is **dismissed**.

There shall be no order as to costs.

Miscellaneous Applications, pending if any, shall stand closed.

31st March, 2023.
GBS

JUSTICE RAVI CHEEMALAPATI