
**Mannam Ramasubbaiah @ Ramasubba Reddy Vs Mannam Jayaramaiah
@ Jayarami Reddy**

Civil Revision Petition No. 3377 of 2003

Court: Andhra Pradesh High Court

Date of Decision: Nov. 3, 2003

Acts Referred:

Civil Procedure Code, 1908 (CPC) – Order 13 Rule 1, Order 13 Rule 2, Order 8 Rule 1A(3)

Citation: (2004) 1 ALD 838

Hon'ble Judges: P.S. Narayana, J

Bench: Single Bench

Advocate: L.J. Veera Reddy, for the Appellant;

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

P.S. Narayana, J.
Heard the Counsel on record.

2. The learned Counsel representing the Revision petitioner/respondent/plaintiff submitted that Order 13 Rule 2 of the Code of Civil Procedure,

hereinafter referred to as ""Code"" in short, had been omitted by Act 46 of 1999, made effective from 1-7-2002 and on this ground alone the

application should have been dismissed by the learned Junior Civil Judge, Badvel and instead the application for reception of documents was

allowed without recording any reasons and hence the impugned order cannot be sustained.

3. The present Revision is preferred as against an order made in I.A.No. 430/2003 in O.S.No. 274/98 on the file of Junior Civil Judge, Badvel.

Though the application was opposed by filing a counter in detail, the said application was allowed on the ground that there is no hard and fast rule

for not admitting documents before adducing the evidence of the party. The respondent in the present Civil Revision Petition/petitioner in I.A.No.

430/2003 is the defendant in the suit O.S.No. 274/98. This application was moved by the respondent under Order 13 Rule 2 of the Code praying

for permission to receive the documents and mark the said documents.

4. It is no doubt true that by Section 23 of Act 46 of 1999, Rules 1 and 2 of Order 13 of the Code have been substituted by the present Rule -

Rule 1 so as to provide that the original documents of which copies have been filed with the plaint and written statement shall be submitted before

the settlement of Issues is made by the Court. Rule 1 of Order 13 of the Code dealing with original documents to be produced on or before the

settlement of Issues as substituted by Act 46/99 reads as hereunder :

5. Original documents to be produced at or before the settlement of issues :- The parties or their pleader shall produce on or before the settlement

of issues, all the documentary evidence in original where the copies thereof have been filed along with plaint or written statement.

Apart from this aspect of the matter, Order 8 Rule 1-A(3) of the Code specifies that a document which ought to be produced in Court by the

defendant under this Rule, but is not so produced, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of

the suit. It may also be relevant to have a look at sub-rules (1) and (2) of Rule 1-A of Order 8 of the Code, which read as hereunder:

(1) Where the defendant bases his defence upon a document or relies upon any document in his possession or power, in support of his defence or

claim for set off or counter claim, he shall enter such document in a list, and shall produce it in court when the written statement is presented by him

and shall, at the same time, deliver the document and a copy thereof, to be filed with the written statement.

(2) Where any such document is not in the possession or power of the defendant, he shall, wherever possible, state in whose possession or power

it is.

As can be seen from the material available on record, the respondent/defendant had not followed this procedure at all and the learned Junior Civil

Judge, Badvel had allowed an application filed under Order 13 Rule 2 of the Code which is no longer in existence on the statute book. Even

otherwise, no reasons at least had been recorded for entertaining these documents at the belated stage. In any view of the matter, the impugned

order cannot be sustained and hence the said order is hereby set aside.

Accordingly, the Civil Revision Petition is allowed. No costs.