

(1978) 07 AP CK 0016

In the Andhra Pradesh High Court

Case No : Civil Revision Petn No. 3811 of 1978

In Re: Kollipara Sreeramulu

Date of Decision : 19-07-1978

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 26 Rule 4, 132

Citation : AIR 1979 AP 30

Hon'ble Judges : Alladi Kuppaswami, J

Bench : Single Bench

Advocate : B.V. Rama Mohan Rao, for the Appellant;

Judgement

Alladi Kuppaswami, J.—This revision petition is against an order allowing an application of the respondent herein who is the plaintiff in O. S. No.78/74 on the file of the Court of the Subordinate Judge, Machilipatnam for being examined on commission. The application was made on two grounds. The first ground was that her husband was a retired Subordinate Judge, that during the lifetime of her husband she used to observe "Ghosha" and never came out of her house and that after her husband's death about 6 or 7 months back she was not coming out of the house. The second ground was that she is old and infirm to move out of the house. The Court below held that it may be that there was no practice of observing "Ghosha" in the family of the plaintiff but it is a common knowledge that in our country the wives of senior officers of the Government do not appear in public offices and are not expected to be present in public offices. It is, therefore, not improbable that the petitioner was not coming out from her house, Thus she comes within the category of women who, according to the customs and manners of the country, ought not to be compelled to appear in public offices. Secondly, it held that she is 78 years old and is finding it difficult to move in her house and on this ground also a Commissioner can be appointed to examine her at her residence

2. I have no hesitation in holding that the first ground is absolutely untenable. Under S. 132 of the Civil P. C women who, according to the customs and manners of the country ought not to be compelled to appear in public shall be

exempted from personal appearance. There is no custom or manners in the country which entitled the wife of a judicial officer to say that she will not appear in court and give evidence. In this respect she is like any other citizen in the absence of any finding to that effect the Court below was wrong in holding that there is a general practice in this country that wives of judicial officers should not appear in public offices and give evidence. On the other hand, it is well known that wives of the judicial officers are holding important positions, are employed in work of a public nature and appear in public including Courts. This reasoning is wholly unsustainable.

3. I am, however, of the view that the order of the Court below can be supported on the ground that the lady is old and infirm and hence under O. 26, R. 1 Civil P. C. she is entitled to ask for being examined on commission. The revision petition is, therefore dismissed,

4. Revision dismissed.