
(2006) 07 AP CK 0011
In the Andhra Pradesh High Court
Case No : CRP No. 564 of 2006

Jaldu Visveswara Rao and Others

APPELLANT

Vs

Mandala Dhana Lakshmi

RESPONDENT

Date of Decision : 12-07-2006

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 18 Rule 3A
Evidence Act, 1872 — Section 120

Citation : (2007) 1 ALD 80 : (2007) 4 ALT 703

Hon'ble Judges : C.Y. Somayajulu, J

Bench : Single Bench

Advocate : Mavidi Rama Rao, for the Appellant; K.V. Subramanya Narusu, for the Respondent

Final Decision : Dismissed

Judgement

C.Y. Somayajulu, J.—In a suit filed by the respondent against the revision petitioners, when her husband wanted to give evidence as the first witness on behalf of the respondent-plaintiff, revision petitioners filed a memo stating that unless the respondent gives evidence in the first instance her husband cannot give evidence as a witness. By the order impugned in this revision the learned Junior Civil Judge rejected the memo and permitted examination of the husband of the respondent in view of Section 120 of the Evidence Act. Hence this revision.

2. The contention of the learned Counsel for the revision petitioners is that in view of Order 18 Rule 3A CPC since respondent did not obtain permission from the Court to examine her witness in the first instance and did not file a memo that she does not wish to examine herself as a witness, the trial Court should have ordered that the respondent cannot give evidence at a subsequent point of time and that the order without making such an observation is not sustainable. Heard the learned Counsel for the respondent.

3. Order 18 Rule 3A CPC lays down that the party who wishes to examine himself as a witness should appear as a witness in the first instance before he examines

the other witness on his behalf is examined, and that the Court can, for reasons to be recorded, permit him to appear as a witness on his behalf at a later stage. So the respondent, by taking advantage of Section 120 of the Evidence Act can examine her husband as a witness on her behalf even without examining herself as a witness in the first instance. Question whether she can be given permission to examine herself as a witness at a later point of time or not need not be decided at this stage and can be decided only when she wants to come into the witness box as a witness on her behalf by filing a petition for that purpose.

4. No order denying permission to the respondent to examine herself as a witness at a later stage can be passed at this stage, because the reasons for the respondent not coming into the witness box in the first instance are not known. At a later stage if the respondent files a petition to examine herself as a witness, revision petitioners can take the objections available to them and depending on the orders to be passed therein they can pursue the remedies available. But they cannot seek a direction from the Court that unless an order directing the respondent not to examine herself as a witness on her behalf in future is passed, her husband cannot be examined as a witness on her behalf and I see no error in the order under revision.

5. Therefore, I find no merits in this revision and hence the revision petition is dismissed. No costs.