

(1999) 08 AP CK 0050
In the Andhra Pradesh High Court
Case No : C.R.P. No. 1791 of 1999

N. Narayana Reddy

APPELLANT

Vs

Gadibavi Rama Subba Reddy and Others

RESPONDENT

Date of Decision : 06-08-1999

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 13 Rule 2
Evidence Act, 1872 — Section 43

Citation : (2000) 1 ALT 69 : (2000) 1 CivCC 624

Hon'ble Judges : G. Bikshapathy, J

Bench : Single Bench

Advocate : Moala Vijaya Bhaskar, for the Appellant; O. Manohar Reddy, for the Respondent

Final Decision : Allowed

Judgement

G. Bikshapathy, J.—The C.R.P. is filed against the orders of the learned Junior Civil Judge, Tadipatri in LA. No. 78/99 in O.S. No. 280/97, dated 16th March, 1999.

2. Petitioner is the defendant. He filed an application under Order 13 Rule 2 of C.P.C. praying the Court to receive the certified copies of certain documents by condoning the delay. The learned Judge dismissed the same on the ground that these documents are irrelevant and hence they cannot be accepted. But, only to the extent of document No. 5, the application was allowed, the rest of the documents were refused to be accepted, against which the present C.R.P. is filed.

3. The learned Counsel for the petitioner submits that the application is only filed under Order 13 Rule 2 C.P.C. for receiving the documents by condoning the delay, but the learned Judge went into the aspect of admissibility of the evidence u/s 43 of the Indian Evidence Act, which is not the domain while considering the matter under Order 13 Rule 2 C.P.C. Therefore, he submits that the order of the Court below is illegal and contrary to law. The learned Counsel for the respondents submit that the order is in accordance with the provisions of the

CPC and the same need not be interfered with.

4. For proper appreciation of the case, it is necessary to reproduce the Order 13 Rule 2 C.P.C. which reads thus:

"Effect....of non-production of documents -- (1) No documentary evidence in the possession or power of any party which should have been but has not been, produced in accordance with the requirements of Rule 1 shall be received at any subsequent stage of the proceedings unless good cause is shown to the satisfaction of the Court for the non-production thereof; and the Court receiving any such evidence shall record the reasons for so doing.

(2) Nothing in Sub-rule (1) shall apply to documents,-

(a) produced for the cross-examination of the witnesses of the other party, or

(b) handed over to a witness merely to refresh his memory."

A reading of the said provision indicates that it is open for the parties to produce the documents at any stage, by showing good cause to the Court for non-production thereof at the earlier point of time. Therefore, what is required to be considered under this provision is that the Courts should satisfy about the cause shown by the party for not producing the documents at the relevant time. The admissibility of a document in evidence is a different issue which will arise at a subsequent stage. Thus, in the instant case, it is seen that the learned Judge has gone into the admissibility of the documents in evidence, which was not the subject matter under Order 13 Rule 2 C.P.C.

5. Under these circumstances, I am satisfied that the order of the Court below is illegal and contrary to law. Accordingly, the C.R.P. is allowed.

6. The lower Court is directed to receive the documents. But, however, this cannot be construed as admitting the documents in evidence. It is always open for the opposite party to take objections for receiving the said documents in evidence and the same shall be considered in accordance with law. No costs.