

(1956) 01 AP CK 0022

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 1390 of 1955 and Civil Miscellaneous Petns. Nos 6562 of 1955, and 139 of 1956

Nori srirama Sastri

APPELLANT

Vs

Nori Lakshmiddevamma and Others

RESPONDENT

Date of Decision : 12-01-1956

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115(C)

Citation : (1956) 01 AP CK 0022

Hon'ble Judges : Umamaheswaram, J

Bench : Single Bench

Advocate : G. Venkataramasastry, for the Appellant; T. Anantababu and P. Rarnachandra Rao, for the Respondent

Judgement

Umamaheswaram, J.—This is an application to revise the order of the Subordinate Judge, Bapatla refusing to decide the question of the admissibility of certain documents which were tendered in the course of the cross-examination of P. W. 23.

The learned Subordinate Judge took the view that there is a practice obtaining in the mofussil Courts that the documents might be marked tentatively and the question of admissibility might be decided at the time of hearing of the arguments in the suit. He was also of the opinion that the decision in V. Chidambaram Chettiar and Another Vs. M.A. Meyyappan Ambalam and Others, recognised and gave its full approval to such a practice. He refused to follow the direct decision of Rajamannar, C. J. reported in Devasikhamani Gounder v. Andamuthu Gounder 1955 1 Mad L J 457 (B) on the ground that the decision of the Bench in Chidambaram Chettiar v. Meyyappan Ambalam (A) was not referred to by him.

2. The learned Subordinate Judge erred in thinking that the learned Judges in Chidambaram Chettiar v. Meyyappan Ambalam (A) held that the question of the admissibility of the documents need not be gone into at the time when an

objection is raised by the parties. What appears from that decision is that the Subordinate Judge without admitting the document, left the question of its admissibility open for arguments at the end.

No arguments seem to have been addressed before the Bench in that case that the procedure adopted by the Subordinate Judge was wrong. There is no expression of any opinion by the learned Judges as to whether the course adopted by the Subordinate Judge is correct. I do not think that this decision can be regarded as an authority approving the procedure adopted by the Subordinate Judge in this case.

3. The decision in 1955 1 Mad LJ 457 (B) directly bears on this question. The observations of Chief Justice Rajamannar are very apt and are as follows;

At the outset I must remark on the rather curious procedure adopted by the learned Judge. If an objection is taken to the admissibility of a document on the ground that it is not stamped and registered, he must first decide both the questions.

4. I respectfully follow these observations and hold that it was the duty of the Subordinate Judge to have decided the question as to the admissibility of the documents objected to by the Petitioner. He ought not to have marked them tentatively and reserved the question of the admissibility for arguments at the final stage.

5. In *Venkata Narasayamma v. Venkata Rattamma*, 1955 AP WR 87 (C) I held that an order of this description is liable to be set aside in revision. It therefore interferes with the provisions of Section 115 (c) of the CPC and directs the Subordinate Judge to decide the admissibility of the documents forthwith and proceed with the trial.

6. It is represented that the suit was adjourned to March, 1956 on the ground that the Civil Revision Petition is pending in this Court.

It is open to the learned Subordinate Judge to advance the partly heard suit and dispose of it as expeditiously as possible.

7. In the result, the Civil Revision Petition is answered with costs.