

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 12TH DAY OF OCTOBER 2001

BEFORE

THE HON'BLE MR.JUSTICE M.P.CHINNAPPA

CIVIL REVISION PEITION NO.3192/2001

BETWEEN:

P.S.Sanjeevaiah Setty,
S/o late Polepalli Subbaiah,
R/o M.G.Road,
Gowribidanur,
Kolar District.

...PETITIONER

(By Sri.M.S.Subbarayappa, Adv)

AND :

Sri.P.S.Sriramaiah Setty,
Major,
S/o Polepalli Subbaiah,
R/o M.G.Road,
Gowribidanur,
Kolar District.

...RESPONDENT

(By Sri.P.S.Sriramaiah Shetty, Adv.)

This C.R.P. is filed U/S. 115 CPC against the order dated.13.7.2001 passed on IA No.12 in OS No.11/89 on the file of the Civil Judge(Jr.Dn) & JMFC, Gowribidanur, rejecting IA No.12 filed u/s. 151 CPC.

This C.R.P. coming on for admission this day, the Court made the following:-



ORDER

Heard the learned Counsel for the petitioner.

2. The petitioner being aggrieved by the order passed by the Court below on the memo filed by the respondent citing the advocate as a witness to be examined before the Court below.

3. The learned Counsel submitted that the petitioner has engaged the services of the Advocate for conducting his case and after long lapse of time, the respondent made an application to cross-examine him without giving particulars as to why he has to be examined etc.,

4. The learned Counsel further submitted that the Advocate was appearing for the Town Municipal Council, Gowribidnur where the respondent was the opposite party. Under that circumstance, he submitted that with an object to see that the Advocate does not appear for the petitioner, this memo is filed citing in the memo



the said Advocate as a witness. He has also alleged that the memo was filed with a mala fide intention to avoid the petitioner from taking the service of the Advocate.

5. However, the Court should have directed the respondent to file necessary application with all particulars to evidence as to whether the examination of the said witness is necessary as he has been appearing for the petitioner quite a long time in that suit.

6. Therefore, the petition is allowed and the impugned order is set aside, reserving liberty to the respondent to file necessary application for cross-examining him as witness and convince the Court.

Sd/-JUDGE

srl.