

THE HONOURABLE SRI JUSTICE
A.GOPAL REDDY

CRP No.3792/2011

Date of Order: 14-10-2011

Between:

Kunisetty Venkateswara Rrao

..Petitioner

and

Chalasani Neelima Devi

..Respondent

The Court made the following Order:

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Oral order:

In the suit filed by the plaintiff for eviction and for recovery of rents, the father-in-law of the plaintiff, who is GPA holder of the plaintiff filed chief affidavit as P.W.1 in lieu of chief-examination and when the matter is coming up for cross-examination, the defendant filed IA No.258/2011 in OS No.232/2010 for eschewing the evidence of P.W.1 from the record. On dismissal of the said IA by the IV Additional Senior Civil Judge (FTC), Vijayawada by order dt. 8-8-2011, the present revision has been filed by the defendant.

Admittedly, the plaintiff purchased the plaint schedule property through GPA holder ie., her father-in-law, who filed affidavit in lieu of chief examination as P.W.1 when the plaintiff is residing in U.S.A., The trial court rightly held that unless cross-examination of P.W.1, GPA holder of the plaintiff, came to light, it is not known whether he is deposing the evidence within his knowledge on behalf of the plaintiff or without knowing the facts personally. It is not stated that the plaintiff is not going to be examined and only P.W.1 will be examined on behalf of the plaintiff.

A Division Bench of this court in *PODELLY CHINNA CHINNANNA V. BANDARI PEDDA BHUMANNA* (2004(1) ALD 241) while answering the reference held that power of attorney holder is a competent witness on behalf of the party/executant and the effect and relevancy of such evidence has to be considered from proper perspective on the facts and circumstances of each case.

In view of the same, the impugned order passed by the trial court does not suffer from any manifest illegality warranting interference by this court.

The Civil Revision Petition is accordingly dismissed. No costs.

A.GOPAL REDDY, J.

Dt.14-10-2011

kmr