

**HON'BLE SRI JUSTICE R.SUBHASH REDDY
AND
HON'BLE SRI JUSTICE S.RAVI KUMAR**

WRIT PETITION No.32522 of 2015

ORDER : *(Per Hon'ble Sri Justice R.Subhash Reddy)*

Heard learned counsel for the petitioner, Sri J.Anil Kumar, learned Standing Counsel appearing for respondent Nos.2 and 3, and Sri V.Surender Reddy, learned counsel appearing for respondent No.4.

In this writ petition, the petitioner has questioned the proceedings/certificate No. LA 49/15, dated 26.02.2015, issued by the 3rd respondent – District Legal Services Authority, Visakhapatnam.

By the aforesaid certificate, the 4th respondent was granted exemption from payment of court fee in exercise of powers vested under Section 13 of the Legal Services Authority Act, 1987 (for short, 'the Act').

It is submitted by learned counsel for the petitioner that earlier there was an adjudication with regard to the same subject matter when the 4th respondent herein and others have earlier filed a suit in O.S.No.35 of 1991 on the file of I-Additional Sub-ordinate Judge, Visakhapatnam, seeking declaration of title and recovery of possession of the suit schedule property, which was dismissed by judgment dated 24.07.1995. Questioning the same,

A.S.No.2401 of 1999 was preferred before this Court and the same was also dismissed. In spite of the same, suppressing the fact of adjudication of her claim in the earlier suit, the 4th respondent has filed a fresh suit seeking partition of the suit schedule properties. It is stated that in connection with such fresh suit, the 4th respondent has filed an application before the 3rd respondent seeking exemption from payment of Court fee. It is submitted that in such application, though the petitioner is made party respondent, without notice and enquiry, the impugned certificate, dated 26.02.2015, is issued by the 3rd respondent.

On the other hand, learned counsel for the 4th respondent submits that as the 4th respondent is a woman, she is entitled for the benefit as provided under Section 12 of the Act and, as such, she was issued the impugned certificate, dated 26.02.2015, granting exemption from payment of Court fee under Section 13 of the Act.

Section 13 of the Legal Services Authority Act reads as under:

“Entitlement to legal services –

(1) Persons who satisfy all or any of the criteria specified in section 12 shall be entitled to receive legal services provided that the concerned Authority is satisfied that such person has a prima facie case to prosecute or to defend.

(2) An affidavit made by a person as to his income may be regarded as sufficient for making him eligible to the entitlement of legal services under this Act unless the concerned Authority has reason to disbelieve such affidavit.”

From a perusal of the aforesaid provision, it is clear that the persons who satisfy all or any of the criteria specified in Section 12 of the Act, are entitled to receive legal services, if the concerned Authority is satisfied that such person, who is claiming exemption, has a prima facie case either to prosecute the case or to defend. In view of the specific case of the petitioner that the 4th respondent has not disclosed the facts about the earlier litigation, which has a direct bearing on the issue in the present suit, we deem it appropriate to set aside the certificate, dated 26.02.2015, with a direction to the 3rd respondent to consider the matter afresh for grant of certificate, by hearing the objections of the petitioner, and dispose of the same as expeditiously as possible, preferably within a period of two months from the date of receipt of a copy of this order.

Subject to the above, the Writ Petition is disposed of.
No order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE R. SUBHASH

REDDY

JUSTICE S.RAVI KUMAR

16.12.2015

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