

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

C.R.P.No.2397 of 2010

ORDER:

This Revision Petition is filed challenging the order dt.20-11-2009 in I.A.No.93 of 2009 in O.S.No.2369 of 2006 of the IX Additional Senior Civil Judge (FTC), City Civil Courts, Hyderabad.

2. Petitioner herein is the plaintiff in the suit. Petitioner filed I.A.No.93 of 2009 under Section 65 of the Evidence Act, 1872 praying the Court to allow the petitioner to mark certified copies of Certificate of Incorporation dt.31-08-1962 and Board Resolution dt.06-12-2000 as secondary evidence.

3. Petitioner contended that the Certificate of Incorporation has to be displayed at the registered office of the petitioner-company as per the provisions of the Companies Act, 1956. Therefore, filing it in Court, marking it as an exhibit, then obtaining it's certified copy and taking back the original by substitution will take considerable time. It contended that to save such time, the petitioner had obtained certified copies of the same from the Registrar of Companies and the same be marked in lieu of the original of the Certificate of the Incorporation. Petitioner also contended that the Minutes Book

containing the Board Resolution dt.06-12-2000 had been filed in O.S.No.796 of 2001 before the VIII Senior Civil Judge, City Civil Courts, Hyderabad and therefore, it is not possible to file it again in the present case. So the petitioner be permitted to file a certified copy thereof.

4. This was opposed by the respondents. They contended that the petitioner did not deliberately file these documents and so it is not entitled to seek leave of the Court for receiving these documents and that the original documents were also disputed by the respondents.

5. By Order dt.20-11-2009, the Court below dismissed I.A.No.93 of 2009. It held that the reason assigned for not producing the original Certification of Incorporation is not one mentioned in Section 65 of the Evidence Act. It also held that since the original Board Resolution has been filed in O.S.No.796 of 2001, petitioner can take it back from the concerned Court and produce the original here.

6. Learned counsel for the petitioner submits that the order passed by the Court below is not correct; that the Certificate of Incorporation is a public document since it is a document recording the act of Registrar of Companies in registering the company; and therefore it's certified copy can be filed in view of Section 65 of the Indian Evidence Act, 1872. He also contended that since

the original of the Board Resolution has been filed in O.S.No.796 of 2001, the Court below ought not to have insisted on filing the same in the present suit and ought to have permitted the petitioner to file a certified copy thereof.

7. None appears for the respondents even though the name of the learned counsel Sri Bankat Lal Mandhani is mentioned in the cause list.

8. As regards the Certificate of Incorporation of the petitioner, the said document is issued by the Registrar of Companies and is a public document as it is the record of a Public Officer i.e. Registrar of Companies registering the petitioner-Company. Since it is a public document coming within Section 74 (1) (iii) of the Evidence Act, 1872 by virtue of clause (e) of Section 65 of the Evidence Act, 1872, the certified copy is admissible in evidence. So the Court below ought to have permitted the petitioner to file it.

9. Coming to the Board Resolution dt.06-12-2000, since admittedly this Board Resolution is contained in a Minutes Book which has been filed in O.S.No.796 of 2001, to insist that the petitioner file the same in the present suit, is not proper. Since it is not the case where the original of the Board Resolution is with the petitioner and the same was admittedly filed in other civil suit O.S.No.796 of 2001 pending on the file of the III Senior

Civil Judge, City Civil Courts, Hyderabad, I am of the opinion that the Court below is not entitled to insist that the original of the said Board Resolution be produced in the present suit either.

10. For these reasons, the Civil Revision Petition is allowed the Order dt.20-11-2009 in I.A.No.93 of 2009 in O.S.No.2369 of 2006 is set aside and the said I.A. is allowed. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 11-06-2015

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