

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

C.R.P.No.3443 OF 2015

ORDER:

This revision petition is filed under Section 115 of the Code of Civil Procedure by the petitioner/Claimant No.2 aggrieved by the order dated 16.04.2015 passed in I.A.No.140 of 2013 in L.A.O.P.No.707 of 1995 by the I Additional District Judge, Nizamabad dismissing the petition filed under Rules 230 and 233 to 235 of Civil Rules of Practice to issue cheque for Rs.4,33,121/-.

While dismissing L.A.O.P.No.707 of 1995 by order dated 05.12.2005, the trial Court observed that as there are multiple claims, the claimants were directed to approach civil Court to establish their rights. In pursuance of the direction, one of the claimants i.e. claimant No.3 approached Principal Junior Civil Judge's Court, Armour by filing succession O.P. claiming share in the compensation amount and accordingly, obtained the succession certificate, but the present revision petitioner did not approach the civil Court.

Since the petitioner did not establish his right to claim compensation in a competent civil Court, the trial Court dismissed the petition declining to issue cheque for Rs.4,33,121/- in his favour.

The main contention of learned counsel for the petitioner is that the petitioner need not approach the competent civil Court to obtain succession certificate since it is compensation and neither it is debt nor security.

No doubt, the compensation is neither debt nor security,

which requires the petitioner to obtain succession certificate under the Indian Succession Act, however, this Court, while dismissing L.A.O.P.No.707 of 1995, directed the parties to approach competent civil Court by way of regular suit. In the absence of declaration by competent civil Court, the petitioner is not entitled to receive cheque for the said amount. Therefore, the trial Court rightly dismissed the cheque petition declining to issue cheque for Rs.4,33,121/- and the said order of the trial Court does not call for interference by exercising revisional jurisdiction under Section 115 of the Code of Civil Procedure.

Accordingly, the civil revision petition is dismissed confirming the order dated 16.04.2015 passed in I.A.No.140 of 2013 in L.A.O.P.No.707 of 1995 by the I Additional District Judge, Nizamabad. There shall be no order as to costs.

Miscellaneous petitions, if any, filed in this appeal shall stand closed.

M.SATYANARAYANA MURTHY,J

02.09.2015
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