

HON'BLE SRI JUSTICE R.KANTHA RAO

Civil Revision Petition No.4265 of 2014

Date: 20-3-2015

Between

Challaboina Dharma Rao

... Petitioner/Petitioner/
Petitioner

and

Tanukula Krishna

and 3 others

... Respondents/Respondents/
Respondents

HON'BLE SRI JUSTICE R.KANTHA RAO

Civil Revision Petition No.4265 of 2014

Order:

Heard Sri Yallabandi Ramatirtha, learned counsel appearing for the

petitioner. Though served with notice, none appeared for the respondents.

2. This civil revision petition is directed against the order dated 29-4-2014 passed in I.A.No.32 of 2014 in M.V.O.P.No.324 of 2010 on the file of the VI Additional District Judge (Fast Track Court), Narsapur, West Godavari district.

3. The petitioner, who is a claimant in the M.V.O.P filed a petition under Order XXVI, Rule 1 CPC seeking appointment of Commissioner to examine the doctors in the claim petition filed by him. Initially, the Warrant could not be executed due to non-availability of the doctors. Subsequently, another application was filed seeking appointment of Commissioner for the same purpose. The learned Court below dismissed the petition stating that the Commissioner returned the Warrant on the ground that the Advocates on either side were not evincing any interest in execution of the Warrant.

4. The learned counsel appearing for the petitioner submits that at relevant time, agitation relating to Samaikhyandhra was going on and therefore, the Warrant could not be executed.

5. The learned trial Court though no counter was filed on behalf of the respondents dismissed the petition. I am of the view that the learned trial Court ought to have allowed the petition as it is very difficult for the petitioner-claimant to get the doctors before the Court for the purpose of giving evidence.

6. The impugned order is therefore set aside and I.A.No.32 of 2014 in M.V.O.P.No.324 of 2010 on the file of the VI Additional

District Judge (Fast Track Court), Narsapur, West Godavari district is allowed. The learned Court below is directed to fix the fee of the Commissioner and also grant time for execution of Warrant by the Commissioner having regard to the facts and circumstances of the case. The civil revision petition is accordingly allowed. The miscellaneous petitions, if any, pending in this revision shall stand closed. No costs.

R.KANTHA RAO, J.

20th March, 2015.

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HON'BLE SRI JUSTICE R.KANTHA RAO

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