

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION NO.4471 OF 2007

ORDER:

This revision petition is filed by the petitioner against the order and decree dt.06.07.2007 passed in I.A.No.11 of 2007 in O.P.No.13 of 2004 on the file of the IV Additional District & Sessions Judge, Visakhapatnam wherein the court below has dismissed the application filed by him under Section 151 of C.P.C., to set aside the order, dated 04.11.2006 returning O.P.No.13 of 2004 in pursuance of the orders passed by this Court in C.R.P.No.791 of 2005, dt.19.09.2006.

The facts of the case in brief are that the petitioner filed O.P.No.13 of 2014 before the IV Additional District Judge, Visakhapatnam under Section 23 of the Andhra Pradesh Societies Registration Act, 2001 for declaration that none of the respondents have legal right whatsoever to call, hold or organize the annual conventions of the members of CBCNC or its various boards at Kakinada or Visakhapatnam under any notification or in pursuance of the notifications/pamphlets already issued or proposed to be issued either by themselves or through their nominees, privies etc., and also consequential relief of permanent injunction and other relief for appointment of

an Advocate-Commissioner for the purpose of holding annual conventions etc. When the said O.P. is pending, respondent No.5 in the main O.P., filed I.A.No.234 of 2004 for rejecting O.P.No.13 of 2004. The said I.A. was dismissed on 17.01.2005. Against the same, the 5th respondent in O.P.No.13 of 2004 carried the matter in C.R.P.No.791 of 2005, which was allowed by this Court on 19.09.2006 holding that O.P.No.13 of 2004 is not maintainable and there was a direction that O.P.13 of 2004 filed by the 5th respondent should be returned to him for the purpose of presentation before the appropriate court and thereafter, without any notice, the main O.P. was adjourned to 07.12.2006. Thereafter, without notice to the petitioner, the same was advanced to 04.11.2006 and the said O.P. was returned. Assailing the same, the petitioner filed I.A.No.11 of 2007 in O.P.No.13 of 2004 for setting aside the order, dated 04.11.2006 on the ground that the Honorable Supreme Court in S.L.P (Civil) No.19512 of 2006 vide order dated 04.12.2006 has stayed the impugned judgment of this Court in C.R.P.No.791 of 2005, dt.19.09.2006.

The learned counsel for the petitioner submits that O.P.No.13 of 2014 was advanced without notice to the petitioner and the same was returned, which is violative of the

principles of natural justice. The trial court after holding that the petitioner is entitled to the notice, passed the impugned order, which is erroneous.

Heard the learned counsel for the 13th respondent. There is no representation on behalf of the other respondents.

In this case, it is to be seen that the trial court dismissed the application filed by the petitioner in I.A.No.11 of 2007 in O.P.No.13 of 2004, dt.06.07.2007 on the ground that the main O.P. is returned in pursuance of the directions of this court contained in C.R.P.No.791 of 2005, in which both the parties appeared and after contest, the same was allowed and that no purpose would be served in issuing notice. The orders of the Apex Court dt.04.12.2006 staying the orders of this court in C.R.P. No.791 of 2005, dt.19.09.2006 were received by the petitioner after 04.12.2006. It is to be seen that the Apex Court has granted stay on 04.12.2006, whereas the impugned judgment of this Court in C.R.P.No.791 of 2005 is passed on 19.09.2006. Whether O.P.No.13 of 2004 is maintainable before the IV Additional District & Sessions Judge, Visakhapatnam depends upon the orders of the Supreme Court in S.L.P. (Civil) No.19512 of 2006. The judgment of this court in C.R.P.No.791 of 2005, dt.19.09.2006 is stayed by the Apex

Court, wherein this court has directed for return of O.P.No.13 of 2014 and as long as stay continues, O.P. cannot be returned.

Accordingly, the revision petition is allowed. However, it is needless to mention that the maintainability of the O.P., ultimately depends upon the result of S.L.P.19512 of 2006 pending before the Supreme Court. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

A.RAJASHEKER REDDY, J

Dt.05.11.2015
TJS

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