

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

Civil Revision Petition No.2198 of 2015

Between:

Dusa Sahitya Balaram

....Petitioner/R.9/D.9

And

1. Dr. Balabolu Ramesh and others

.... Respondents

DATE OF JUDGMENT PRONOUNCED: **22.07.2015**

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

1. Whether Reporters of Local Newspapers may be allowed to see the judgments? Yes / No
2. Whether the copies of judgment may be marked to Law Reporters / Journals? Yes / No
3. Whether Their Lordship wish to see the fair copy of the Judgment? Yes / No

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JUDGMENT:

In this petition filed under Section 227 of Constitution of India, the petitioner/D.9 seeks to set aside the Order dated 20-01-2015 in I.A.No.230 of 2014 in O.S.No.176 of 2011 on the file of Principal Junior Civil Judge, Srikakulam.

2) The factual matrix of the case is thus:

The respondents/plaintiffs filed a suit in O.S.No.176 of 2011 on the file of Principal Junior Civil Judge, Srikakulam, against the present petitioner and respondent Nos. 4 to 11 for perpetual injunction. In the suit, the plaintiff arrayed the petitioner/D.9 as Kota Sahitya, S/o Mehar Kumar. According to the petitioner/D.9, though he was the son of Kota Mehar Kumar, he was adopted by Dusa Adinarayanarao and his wife Smt Sarojini and therefore, he should be referred as Dusa Sahitya Balaram, S/o Dusa Adinarayanarao. The adoption was the subject matter in a suit filed by the respondents/plaintiffs, wherein the adoption was held to be valid which was confirmed by appellate Court also. Hence, the petitioner/D.9 filed a Memo before the trial Court seeking a direction to the plaintiffs to take necessary steps to change his name as Dusa Sahitya Balaram. Notice on Memo was given to respondents/plaintiffs, who made an endorsement as “ received copy subject to file objections”. However, on the same day i.e., 09-07-2012, the Court made an Order as “ the petitioners/plaintiffs have to take

necessary steps to get the name amended". Hence, the plaintiffs filed a petition in I.A.No.230 of 2014 under Sections 151, 152 and 153 C.P.C., to set aside the Order dated 09-07-2012. The trial Court after hearing both sides allowed the petition and set aside the Order in Memo. Hence, the present C.R.P. by the petitioner/D.9.

3) Heard both sides.

4) It is seen that through the impugned Order, the trial Court allowed the petition mainly on the observation that generally Memos will be filed by the parties only to bring some facts to the notice of the Court, but not to seek any relief and the Court also cannot pass an Order thereon. The trial Court further observed that in another suit between the same parties in O.S.No.24 of 2011 on the file of Special Judge, for trial of cases under SCs and STs (POA) Act, when similar order was passed and the plaintiff carried the revision, the Hon'ble High Court observed that the plaintiff cannot be directed to amend his plaint at the instance of the defendant (vide 2014 (4) ALD 330). On these observations, the trial Court allowed the petition.

5) On careful scrutiny of the Order, it must be said that the impugned order is impeccable and impregnable and it does not require any re-consideration. I find no merits in the revision petition. As instructed by the trial Court, the petitioner/D.1 is at liberty to refer his name to his choice in the suit proceedings wherever required by mentioning as

Kota Sahitya, S/o Mehar Kumar alias Dusa Sahitya Balaram, S/o Dusa Adinarayana Rao(adoptive father) if he is so desired.

6) With the above observation, the C.P.R. is dismissed.

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

U. DURGA PRASAD RAO, J

Date: 22.07.2015

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HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

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Dt. 22-07-2015

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