

THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION No.2627 OF 2015

ORDER:

Heard learned counsel for the petitioners and learned counsel for respondent No.1.

This revision petition, under Article 227 of the Constitution of India, is filed by the petitioners in F.C.O.P. (Sr).No.2004 of 2015 on the file of Family Court, Hyderabad, aggrieved by the docket order, dated 30.06.2015, passed in the said O.P..

The aforesaid O.P. is filed with the prayer, which reads as under:

“..., petitioners humbly prayed that the Hon'ble Court may be please to pass the judgment and decree,

i) Declaring that the 1st Petitioner is the legally wedded wife and the Petitioners No.2 and 3 are the sons and legal heirs of the Respondent and as such, except Petitioners and Respondent, no others are entitled to receive the pensionary benefits of the Respondent, who retired on 31-03-2015.

ii) To award the Costs of the suit/petition.

iii) Pass any such other order or orders, as this Hon'ble Court may deem fit and proper in the circumstances of the case, in the interest of justice and equity.”

As much as the petitioners are claiming pensionary benefits of respondent No.1, who is the husband of petitioner No.1 and father of petitioner Nos.2 and 3, office of the Family Court has taken objection with regard to the claim for pensionary benefits, which is basically a monetary claim, for which, proper Court fee has to be paid.

It is true that the petitioners are claiming pensionary benefits of respondent No.1, but the same is only incidental and ancillary to the main relief of declaration as legal heirs. As the O.P. is filed before the Family Court, the same is governed by the provisions of the Family Courts Act and the Rules made thereunder and as Rule 5 (b) of the Rules provides for fixed Court fee in respect of any petition filed before the Family Court, the impugned order, dated 30.06.2015, is liable to be set aside.

Accordingly, the revision petition is allowed and the impugned order, dated 30.06.2015, is set aside. The Court below is directed to number the O.P. and take further steps in accordance with law. Miscellaneous Petitions, if any, pending in this revision petition, shall stand closed. No costs.

R. SUBHASH

REDDY, J
October 30, 2015
MD