

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

Civil Miscellaneous Appeal No.559 OF 2007

JUDGMENT:

1 This Civil Miscellaneous Appeal is filed under Section 384 of Indian Succession Act, challenging the orders dated 01.06.2007 passed in SOP No.7 of 2004 on the file of the I Additional District Judge, Ongole.

2 The parties to this appeal will hereinafter be referred to as they are arrayed before the trial Court for the sake of convenience.

3 The factual matrix germane to filing of the present appeal is, succinctly, as follows:

4 First petitioner is wife, petitioner Nos.2 to 4 are sons of one late Dasari Lakshmaiah, who died on 15.06.2003 in a motor vehicle accident, while working as helper in APSRTC, Addanki depot. First respondent is the divorced wife of late Lakshmaiah.

First respondent executed a registered relinquishment deed on 07.06.1991 in favour of late Lakshmaiah relinquishing all her rights in the properties of late Lakshmaiah. After the death of Lakshmaiah, the petitioners approached the second respondent claiming the death benefits of late Lakshmaiah, for which the first respondent also made counter claim. The second respondent directed the petitioners to approach the Court for succession certificate. Hence the petition.

5 First respondent filed counter denying all the averments made in the petition inter alia contending that she is the legally wedded wife of late Lakshmaiah. The marriage of first respondent was performed with late Lakshmaiah when she was aged about seven years. After attaining puberty, this respondent joined late

Lakshmaiah at Medarametla to lead marital life. Out of their lawful wedlock, they were blessed with a daughter by name Indumati. After four years, late Lakshmaiah used to visit the house of this respondent occasionally. On enquiry, she came to know that Lakshmaiah developed illicit intimacy with the first petitioner. When she questioned the behaviour of late Lakshmaiah, he kidnapped her daughter and thereafter obtained thumb marks of this respondent on some papers in Addnaki at the house of one advocate. Having no other option this respondent filed M.C.No.24 of 2000 on the file of the Court of the III Additional Munsif Magistrate, Ongole, seeking maintenance. In the said petition Lakshmaiah filed counter alleging as if she filed O.P.No.20 of 1991 for divorce, which was decreed in her favour on 25.4.1991 and that she also executed a relinquishment deed dated 07.06.1991 giving up all her rights. Taking advantage of her thumb marks, late Lakshmaiah filed cases against her. This respondent never executed any relinquishment deed. After the death of Lakshmaiah, this respondent got issued a notice to the second respondent to pay the death benefits to her for which the second respondent directed this respondent to obtain succession certificate. When this respondent is making attempts to approach the competent Court for succession certificate, the petitioners filed the present petition. There is no relationship between late Lakshmaiah and petitioner Nos.2 to 4. Hence the petition may be dismissed.

6 During the course of trial, on behalf of the petitioners P.Ws.1 to 4 were examined and Exs.A.1 to A.49 were marked. On behalf of the first respondent, R.Ws.1 to 4 were examined and Exs.B.1 to B.13 were marked. Ex.C.1 was marked by the Court.

7 Basing on the oral, documentary evidence and other material

available on record, the trial Court allowed the petition. Feeling aggrieved by the orders of the trial Court, the first respondent filed the present appeal.

8 The learned counsel for the first respondent (Appellant) submitted that the finding of the trial Court that Indumati is not the daughter of late Lakshmaiah and the first respondent is contrary to the oral and documentary evidence available on record. He further submitted that the trial Court ought to have held that late Lakshmaiah had filed divorce O.P.No.20 of 1991 and maintenance case by taking the thumb marks of the first respondent under fear of threat. He further submitted that the trial Court having held that the first petitioner failed to prove her marriage with late Lakshmaiah and ought to have dismissed the petition. He further submitted that the finding of the trial Court that the petitioners are entitled to succession certificate is not sustainable as it disbelieved the theory of customary divorce between late Lakshmaiah and the first respondent as put forth by the petitioners.

9 *Per contra*, the learned counsel for the petitioners (respondents) submitted that the first respondent, having obtained divorce from late Lakshmaiah in a court of Law, is not entitled to claim death benefits of late Lakshmaiah. The finding of the trial Court that Indumati is not the daughter of late Lakshmaiah and first respondent is supported by the recitals of Exs.A.4, A.6, A.7 and A.8. He further submitted that the finding of the trial Court that late Lakshmaiah nominated the first petitioner and the first respondent to receive his death benefits is not sustainable in view of the recitals of Ex.A.13. He further submitted that the trial Court has assigned cogent and valid reasons to its findings and hence the

appeal is liable to be dismissed.

10 Basing on the rival contentions, the following points arise for determination in this appeal are as follows:

- a. Whether the petitioners are entitled to succession certificate?
- b. Whether the trial Court committed error, in allowing the petition filed by the petitioners, warranting interference of this Court?

11 To substantiate the case the first petitioner examined herself as P.W.1. To demolish the case of the petitioners, the first respondent examined herself as R.W.1. P.Ws.2 to 4 were examined to prove the relationship between late Lakshmaiah and the petitioners. Respondent filed memo giving up the evidence of R.W.4. R.Ws.2 and 3 were examined to prove that the first respondent is the legally wedded wife of late Lakshmaiah and late Lakshmaiah and first respondent were blessed with one daughter by name Indumati during their lawful wedlock.

12 It is an admitted fact that the marriage of the first respondent was performed with late Lakshmaiah when she was aged about seven years. The first respondent joined late Lakshmaiah to lead marital life after she attained puberty. Unfortunately, bad weather prevailed in the family life of the first respondent and late Lakshmaiah, which forced them to live separately, which eventually paved a path for entry of the first petitioner into the life of late Lakshmaiah and begetting petitioner Nos.2 to 4. Late Lakshmaiah worked as helper in APSRTC till he died on 15.6.2003 in a motor vehicle accident. A perusal of Ex.B.12 clearly reveals that the first respondent filed M.C.No.24 of 2000 on the file of II Additional Munsif Magistrate Court, Ongoe wherein late Lakshmaiah gave evidence as R.W.1. Late Lakshmaiah has taken

a specific plea in the said M.C that he has taken customary divorce from the first respondent in the presence of elders. As per the testimony of P.Ws.1, 3 and 4 late Lakshmaiah had obtained customary divorce from the first respondent. Of course, the first respondent denied the same. The burden of proof lies on the petitioners to establish that customary divorce has been in vogue since times immemorial in the caste of late Lakshmaiah and the same was recognized in a court of law. Except taking a plea in the petition, nothing is placed on record to establish that late Lakshmaiah had obtained customary divorce from the first respondent. Any amount of oral evidence without establishing the customary divorce in that particular community is of no avail. The material placed before the Court falls short to establish the stand taken by the petitioners. The trial Court has considered the stand taken by the petitioners in the light of the oral and documentary evidence as well as case law and arrived at a conclusion that the petitioners failed to establish the customary divorce between late Lakshmaiah and first respondent. There is no illegality or irregularity in the findings of the trial Court which warrants interference of this Court. I am fully endorsing the finding of the trial Court on this aspect.

13 The predominant contention of the first respondent is that late Lakshmaiah forcibly obtained her thumb marks on white papers by kidnapping her daughter and taking advantage of those papers, he filed divorce O.P and also brought into existence the relinquishment deed purported to have been executed by her. The respondent has taken this plea in order to get her daughter Indumati also benefited by a share in the death benefits of late Lakshmaiah.

14 A perusal of Exs.A.1, .3 and A.5 clearly reveals that the first

respondent had filed M.C.No.36 of 1990 on the file of the Court of the II Additional Judicial Magistrate of I Class, Ongole seeking maintenance from late Lakshmaiah. In the said M.C. late Lakshmaiah filed counter. The contention of the first respondent is that taking advantage of her thumb marks on white papers, late Lakshmaiah got filed that M.C. A perusal of Ex.A.4 clearly reveals that the first respondent herself filed a compromise memo. A perusal of Ex.A.5 clearly demonstrates that the II Additional Judicial Magistrate of I Class, Ongole dismissed that M.C. in the presence of both parties placing reliance on Ex.A.4 memo.

15 Ex.A.6 is the certified copy of petition and Ex.A.7 is the certified copy of decree in O.P.20 of 1991 on the file of the Court of the Subordinate Judge, Addanki. A perusal of these two documents reveals that first respondent filed O.P.No.20 of 1991 seeking for dissolution of marriage between her and late Lakshmaiah and the same was allowed by the Court on 25.4.1991. First respondent also executed a relinquishment deed - Ex.C.1 relinquishing her right in the properties of late Lakshmaiah after taking an amount of Rs.7,000/-.

16 Leave apart all these disputed questions of fact, if whatever pleaded by the first respondent is taken to be true and correct, the same should have been reflected in O.P.No.20 of 1991 and in Ex.C.1 relinquishment deed. In Ex.A.6 which is certified copy of the petition in O.P.No.20 of 1991, it is not mentioned that out of lawful wedlock, the first respondent and late Lakshmaiah were blessed with a daughter by name Indumati. A perusal of Ex.A.7 – certified copy of decree in O.P.No.20 of 1991 gives an impression even to an ordinary prudent man that the first respondent and late Lakshmaiah were not blessed with children out their lawful

wedlock. It is not out of place to extract here the relevant portion of Ex.C.1 to appreciate the rival contentions as well as to ascertain the truthfulness or otherwise of the version put forth by the first respondent.

“వివాహము జరిగినది మొదలు మన ఇరువురికి విమల పడక ప్రత్యేక ప్రత్యేకములుగా ఉంటూ జీవించుచు కాలము గడుపుచున్నాము. ఇప్పటివరకు నీ వలన నాకు మాత్రము ఏ విధమైన సంతతి కలిగియుండలేదు. ఇట్టి పరిస్థితులలో నేను మన ఇరువురి వివాహము రద్దు పర్చవలసినిదిగా శ్రీ అద్దంకి సబార్డినేట్ జడ్జి వారి కోర్ట్ లో ది 1-4-1991 న ఓ.పి. నే.20/91 గా పిటిషన్ దాఖలు చేసినాను. అందు మీదట శ్రీ అద్దంకి సబార్డినేట్ జడ్జి గారు ది 25-4-1991 న మన వివాహము రద్దు పరుస్తూ తీర్పు ఇచ్చినారు. సదరు తీర్పు ప్రకారం, మన వివాహము రద్దు అయినది.”

17 A perusal of the above extract in Ex.C.1 shows that the first respondent in unequivocal terms mentioned that she was not blessed with children through late Lakshmaiah. From a perusal of Ex.C.1 it is clear that the first respondent has relinquished her right by accepting an amount of Rs.7,000/- from late Lakshmaiah. The first respondent being a party to Ex.C.1 is precluded to adduce oral evidence contrary to the recitals of Ex.C.1 in view of Sections 91 and 92 of Indian Evidence Act. The only exception is that the party to the document is entitled to adduce evidence explaining the circumstances under which he or she was forced to execute that document. The burden of proof lies on the first respondent to establish that late Lakshmaiah created Ex.C.1 taking advantage of the thumb marks which he obtained from her under threat. It is not the case of the first respondent that late Lakshmaiah had obtained her thumb marks on stamp papers. It is a common knowledge that no registering authority will register the document without the presence of the executant of the document. Further, it is also not the case of the first respondent that Ex.C.1 was created by impersonation.

18 It is an admitted fact that first respondent filed M.C.No.24 of 2000 on the file of the Court of the II Additional Munsif Magistrate, Ongole seeking maintenance from late Lakshmaiah. In the said

M.C late Lakshmaiah filed counter inter alia contending that the first respondent had obtained customary divorce from him and that she had also executed a relinquishment deed – Ex.C.1. First respondent is very much aware of Ex.C.1 and passing of decree in the divorce O.P.No.20 of 1991. First respondent has not taken any steps to establish that Ex.C.1 is the brain child of late Lakshmaiah. Unless and until a competent civil court declares that Ex.C.1 relinquishment deed is not legally enforceable, till that time, it is binding on the first respondent. Likewise unless and until a competent court set aside the judgment and decree in O.P.No.20 of 1991, the same is binding on her. A perusal of Ex.A6 and A.7 prima facie reveals that the first respondent herself approached the court and obtained divorce decree. As long as the judgment and decree passed in O.P.No.20 of 1991 is in force, the same is binding on the first respondent. Basing on the material available on record, the irresistible conclusion that can be drawn is that the first respondent had obtained divorce from late Lakshmaiah in O.P.No.20 of 1991 and also executed Ex.C.1 relinquishment deed giving up her rights in the properties of late Lakshmaiah by accepting an amount of Rs.7,000/-. For all practical purposes, the first respondent is not the wife of late Lakshmaiah with effect from 25.04.1991. The first respondent is not entitled to oppose the succession petition filed by the petitioners on the ground that she is the wife of late Lakshmaiah. In order to circumvent the legal consequences of Exs.A.6 and A.7 and Ex.C.1, the possibility of taking of the plea by the first respondent that late Lakshmaiah created these documents cannot be ruled out completely.

19 The contention of the first respondent is that Indumati, being the daughter of herself and late Lakshmaiah, is also entitled to a share in the death benefits of late Lakshmaiah. To substantiate

the same, the first respondent placed reliance on Exs.B.1 to B.6. Exs.B.1 to B.4 are insurance policy premium receipts. In Ex.B.1 Indumati is shown as daughter of late Lakshmaiah. It is not the case of the first respondent that late Lakshmaiah himself had taken the policy in the name of Indumati introducing himself as her father. Mere mentioning the name of late Lakshmaiah in the insurance policy as father of Indumati by itself is not sufficient to declare that Indumati is daughter of late Lakshmaiah and first respondent without taking into consideration the oral and documentary evidence available on record. Exs.B.5 to B.8 are subsequent to the death of late Lakshmaiah. Therefore, much weight cannot be attached to these documents.

20 As per the recitals of Ex.B.13, Indumati was admitted in Mandal Praja Parishad School, Vellampalli. To controvert the contention of the first respondent, the learned counsel for the petitioners mainly relied on Ex.A.43 which is the study certificate issued by Head Master of Saint Armould Primary School, Medaramatla wherein the father's name of Indumati is shown as Raju. A perusal of Ex.A.43 shows that Indumati studied from classes III to VI in Medarametla village from 1998-99 to 2000-01. In Ex.A.42 voters list of Medarametla Gram Panchayat of Addanki Assembly Constituency for the year 1999 the name of the first respondent at Sl.No.2325 is shown as wife of one Raju. There is correlation between Exs.A.42 and A.43. In the cross examination R.W.1 stated different versions with regard to the studies of Indumati. At one stage, she deposed that her daughter studied up to 10th class privately without attending any school. Of course, the respondent / defendant is entitled to take any number of inconsistent pleas in order to substantiate his / her case or to negativate the case of the petitioner / plaintiff. It is a settled

principle of law that the respondent / defendant is not entitled to take mutually self-destructive pleas. There is no consistency in the stand taken by the first respondent so far as the schools in which Indumati studied from Class I to Class X.

21 Another interesting aspect is that for one reason or the other, Indumati did not choose to implead herself as one of the respondents in the Succession O.P. The first respondent also did not take any steps to file a petition before the Court to implead Indumati as one of the parties to the proceedings. Basing on the material available on record, the trial Court arrived at a conclusion that Indumati is not entitled to claim share in the death benefits of late Lakshmaiah. This Court is very much conscious that the rights of an individual cannot be decided in their absence, more particularly in cases of this nature. The first respondent herself had taken a plea that Indumati is also entitled for a share in the death benefits of late Lakshmaiah. It is not out of place to extract hereunder Section 373 (3) of the Indian Succession Act.

(3) If the Judge cannot decide the right to the certificate without determining questions of law or fact which seem to be too intricate and difficult for determination in a summary proceeding, he may nevertheless grant a certificate to the applicant if he appears to be the person having prima facie the best title thereto.

22 Therefore, in view of the scope of the above provision of law, the Court can prima facie give a finding basing on the oral and documentary evidence available on record. Therefore, the trial Court answered the issue.

23 The oral and documentary evidence available on record, prima facie, establishes that Indumati is not entitled to claim share in the death benefits of late Lakshmaiah in view of the peculiar facts and circumstances of the case.

24 Before advertng to the findings of the trail Court, it is apposite to refer to the case law on which the learned counsel for the petitioners is placing reliance.

25 ***Chowdegowda Vs. C. Nagaraju***^[1] and ***Ranganath Parmeshwar Panditrao Mali Vs. Eknath Gajanan Kulkarni***^[2].

26 As per the principle enunciated in the cases cited supra, if a man and woman having been residing together under the same roof as wife and husband for such a long time to the knowledge of one and all, the Court can draw a presumption that they are wife and husband in the eye of law.

27 ***Vidhyadhari and Others Vs. Sukhrana Bai and Others***^[3]

wherein the Hon'ble apex Court held as under:

9. However, unfortunately, the High Court stopped there only and did not consider the question as to whether in spite of this factual scenario Vidhyadhari could be rendered the Succession Certificate. The High Court almost presumed that Succession Certificate can be applied for only by the legally wedded wife to the exclusion of anybody else. The High Court completely ignored the admitted situation that this Succession Certificate was for the purposes of collecting the Provident Fund, Life Cover Scheme, Pension and amount of Life Insurance and amount of other dues in the nature of death benefits of Sheetaldeen. That Vidhyadhari was a nominee is not disputed by anyone and is, therefore proved. Vidhyadhari had claimed the Succession Certificate mentioning therein the names of four children whose status as legitimate children of Sheetaldeen could not and cannot be disputed. This Court in a reported decision in Rameshwari Devi's {(2000) 2 SCC 431} has held, that even if a Government Servant had contracted second marriage during the subsistence of his first marriage, children born out of such second marriage would still be legitimate though the second marriage itself would be void. The Court, therefore, went on to hold that such children would be entitled to the pension but not the second wife. It was, therefore, bound to be considered by the High Court as to whether Vidhyadhari being the nominee of Sheetaldeen could legitimately file an application for Succession Certificate and could be granted the same. The law is clear on this issue that a nominee like Vidhyadhari who was claiming the death benefits arising out of the employment can always file an

application under Section [372](#) of the Indian Succession Act as there is nothing in that Section to prevent such a nominee from claiming the certificate on the basis of nomination. The High Court should have realised that Vidhyadhari was not only a nominee but also was the mother of four children of Sheetaldeen who were the legal heirs of Sheetaldeen and whose names were also found in Form A which was the declaration of Sheetaldeen during his life-time. In her application Vidhyadhari candidly pointed out the names of the four children as the legal heirs of Sheetaldeen. No doubt that she herself has claimed to be a legal heir which status she could not claim but besides that she had the status of a nominee of Sheetaldeen. She continued to stay with Sheetaldeen as his wife for long time and was a person of confidence for Sheetaldeen who had nominated her for his Provident Fund, Life Cover Scheme, Pension and amount of Life Insurance and amount of other dues. Under such circumstances she was always preferable even to the legally wedded wife like Sukhrana Bai who had never stayed with Sheetaldeen as his wife and who had gone to the extent of claiming the Succession Certificate to the exclusion of legal heirs of Sheetaldeen. In the grant of Succession Certificate the court has to use its discretion where the rival claims, as in this case, are made for the Succession Certificate for the properties of the deceased. The High Court should have taken into consideration these crucial circumstances. Merely because Sukhrana Bai was the legally wedded wife that by itself did not entitle her to a Succession Certificate in comparison to Vidhyadhari who all through had stayed as the wife of Sheetaldeen, had born his four children and had claimed a Succession Certificate on behalf children also. In our opinion, the High Court was not justified in granting the claim of Sukhrana Bai to the exclusion not only of the nominee of Sheetaldeen but also to the exclusion of his legitimate legal heirs.

28 The case of the petitioners is that first petitioner is wife and Petitioner Nos.2 to 4 are children of late Lakshmaiah. No doubt, the petitioners have not proved the exact date of marriage between the first petitioner and late Lakshmaiah. The trial Court disbelieved the version put forth by the petitioners about the customary divorce between the first respondent and late Lakshmaiah. The first respondent filed M.C.No.36 of 1990 on the file of the Court of the II Additional Munsif Magistrate, Ongol taking a specific plea that late Lakshmaiah developed illicit intimacy with the first petitioner. The first respondent has taken the same plea in O.P.No.20 of 1991 and M.C.No.24 of 2000 (Ex.A.49). The first

respondent herself admitted the relationship between late Lakshmaiah and the first petitioner irrespective of the legality. As per the testimony of P.W.1, she gave birth to four children i.e. petitioner Nos.2 to 4 through late Lakshmaiah. As per the testimony of P.Ws.3 and 4, Petitioner Nos.2 to 4 are children of P.W.1 and late Lakshmaiah. P.W.2 is none other than the son of the first petitioner. Naturally he will support the version of the first petitioner.

29 A perusal of Ex.A.14 to A.23 study certificates clearly reveals that late Lakshmaiah admitted the petitioner Nos.2 to 4 in the school as natural father. Ex.A.24 is voters list and A.26 is identity card. In Ex.A.24, the name of the first petitioner is shown as wife of late Lakshmaiah. In Exs.A.27 to A.41 – insurance premium receipts, the name of the first petitioner is shown as wife of late Lakshmaiah. Ex.A.9 family identity card issued by APSRTC on 30.03.1999 also strengthens the version put forth by the petitioners that the first petitioner is wife and petitioner Nos.2 to 4 are sons of late Lakshmaiah. Ex.A.10 – Bus pass dated 11.06.1997 issued by APSRTC shows that late Lakshmaiah, his wife and sons were permitted to travel from Hyderabad to Tirupati and from Tirupati to Hyderabad. Ex.A.14 is the certificate issued by Jayanthi Nursing Home, Medarametla stating that the first petitioner underwent tubectomy operation on 21.04.1989. A perusal of Ex.A.12 reveals that the Depot Manager, APSRTC, Addanki sanctioned one special increment to late Lakshmaiah with effect from 01.05.1989 on the ground that the first petitioner underwent tubectomy operation on 21.04.1989. There is no rebuttal evidence coming from the side of the first respondent to doubt the genuineness these certificates.

30 The various documents filed by the petitioners clearly reveal that the employer of late Lakshmaiah had recognized the petitioners as family members of late Lakshmaiah. The various school certificates filed by the petitioners also clinchingly establish that the petitioner Nos.2 to 4 are children of the first petitioner and late Lakshmaiah. There is overwhelming oral and documentary evidence on record to establish that the first petitioner and late Lakshmaiah lived together from 1987 onwards in Medarametla village as wife and husband and they were blessed with three children i.e. petitioner Nos.2 to 4.

31 If not directly, by necessary implication, the respondent also admitted the cohabitation of late Lakshmaiah and the first petitioner. The facts of the case on hand are almost identical to the facts of the case in Chowdegowda (1 supra), Ranganath Parmeshwar Panditrao Mali case (2 supra) and Vidyadhari case (3 supra).

32 Having regard to the facts and circumstances of the case, the trial Court rightly held that the first petitioner is wife late Lakshmaiah and petitioner Nos.2 to 4 are children of the first petitioner through late Lakshmaiah. The trial Court has assigned cogent and valid reasons to its findings. There are no grounds much less valid grounds to upset the findings recorded by the trial Court that the first petitioner is wife and Petitioner Nos.2 to 4 are children of late Lakshmaiah and the first petitioner.

33 The second respondent has taken a specific plea in the counter that late Lakshmaiah has nominated the first petitioner and the first respondent as nominees. The trial Court carried away basing on the averments made in the counter filed by the second respondent. The petitioners have filed Ex.A.13 nomination

certificate. As per the nomination form, late Lakshmaiah nominated the first petitioner as his nominee. In the same form the relation between late Lakshmaiah and the first petitioner is shown as husband and wife. Had the trial Court taken a little bit care to verify each and every document physically, the finding of the trial Court would have been otherwise. The recitals of Ex.A.13 support the version of the petitioners that late Lakshmaiah has given nomination to the first petitioner to receive whatever benefits to which he is entitled from his employer. The second respondent did not choose to examine anybody on its behalf. So there is no opportunity for the petitioners to elicit that late Lakshmaiah nominated the first respondent to receive the family benefits due to non-examination of any body on its behalf by showing Ex.A.13. The plea of the second respondent that late Lakshmaiah nominated the first petitioner and the first respondent as his nominees is negated by the recitals of Ex.A.13 issued by it. It appears that some mistake was crept in the counter of the second respondent. Basing on the pleadings of the second respondent in its counter, the court below arrived at a conclusion that late Lakshmaiah shown the first petitioner and the first respondent as his nominees in the nomination form, which is factually incorrect and legally untenable. Therefore, the finding of the trial Court on this aspect is incongruous and therefore the same is unsustainable.

34 In the light of the foregoing discussion, I am of the considered view that the trial Court has assigned cogent and convincing reasons to its findings. I see no grounds much less valid grounds to interfere with the findings of the trial Court and the appeal lacks merits and bonafides.

35 In the result, the appeal is dismissed, confirming the orders dated 01.06.2007 passed in SOP No.7 of 2004 on the file of the I Additional District Judge, Ongole. No order as to costs. Consequently, miscellaneous petitions, if any, pending in this miscellaneous appeal, shall stand closed.

T. SUNIL CHOWDARY, J.

Date: September, 2015.

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[\[1\]](#) AIR 1996 SC 3485

[\[2\]](#) AIR 1996 SC 1290

[\[3\]](#) AIR 2008 SC 1420