HON'BLE SRI JUSTICE R.SUBHASH REDDY

AND

HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CIVIL REVISION PETITION Nos.2029 and 2030 of 2015

<u>COMMON ORDER :</u> (per Hon'ble Sri Justice R.Subhash Reddy)

Since the issue involved in both these civil revisions petitions is inter-related and the parties are one and the same, they are heard together and being disposed of by this common order.

2 . These Civil Revision Petitions, under Article 227 of the Constitution of India, are filed by the petitioners/respondents aggrieved by the orders dated 11.04.2015 in I.A.No.1 of 2014 and I.A.No.2 of 2014 in A.A.No.46 of 2009, respectively, passed by the learned Arbitrator, allowing the applications filed by the 1st respondent/claimant (i) under Order VII Rule 14 of C.P.C., seeking to receive the certified copies of I.T. Returns of Pranava Constructions for the year 2005-06 (Assessment Year of 2006-07); and (ii) under Order XVIII Rule 17 of C.P.C., seeking to recall P.W.1 for the purpose of marking of I.T. Returns of Pranava Constructions for the year 2005-06 (Assessment Year of 2006-07), respectively.

3 . The 1st respondent/claimant filed Arbitration Application No.46 of 2009 before the 2nd respondent-Arbitrator against the petitioners/respondents claiming a sum of Rs.65,80,500/- towards her share. Subsequently, she filed I.A.Nos.1 and 2 of 2014 viz., (i) I.A.No.1 of 2014 under Order VII Rule 14 of C.P.C., seeking to receive the certified copies of I.T. Returns of Pranava Constructions for the year 2005-06 (Assessment Year of 2006-07); and (ii) I.A.No.2 of 2014 under Order XVIII Rule 17 of C.P.C., seeking to recall P.W.1

for the purpose of marking of I.T. Returns of Pranava Constructions for the year 2005-06 (Assessment Year of 2006-07), respectively. After considering the material on record, the learned Arbitrator allowed both the applications vide separate orders dated 11.4.2015. Aggrieved by the same, the petitioners/respondents have filed the present civil revision petitions.

4 . Learned counsel for the petitioners/respondents contents that the documents, which are sought to be marked by the 1st respondent/claimant, are not certified copies and, as such, they cannot be allowed to be marked as evidence. In support of his contention, the learned counsel has placed reliance on the judgment of a learned single Judge of this Court in A.K. BHASKAR RAO vs. K.A. RAMA RAO.

5. Having heard learned counsel for the petitioners/ respondents, we have perused the impugned orders and the material on record.

6. In this case, it is to be noticed that the 1st respondent/claimant has filed A.A.No.46 of 2009 before the learned Arbitrator under the provisions of the Arbitration and Conciliation Act, 1996. The 1st respondent/claimant wants to place on record certain documents, which are sought to be marked as additional evidence, along with a covering letter dated 22.12.2011 issued by the Income Tax Officer, Ward-6(4), Hyderabad. A perusal of the letter dated 22.12.2011 indicates that on an application filed by the 1st respondent/claimant under Right to Information Act, 2005, the said documents are furnished, certifying the same as copies of I.T. Return, Computation of Income, Profit and Loss Account, Balance Sheet with schedule relating to M/s. Pranava Constructions, Hilltop Colony, Erramanzil, Hyderabad, for the Assessment Year 2006-07, as per the records available in the office.

7. In this regard, it is apt to refer the provision under Section 76 of the Indian Evidence Act, 1872, which reads as under:

> **Certified copies of public documents:** Every [public officer having the custody of a public document, which any person has a right to inspect, shall give that person on demand a copy of it on payment of the legal fees therefor, together with a certificate written at the foot of such copy that it is a true copy of such document or part thereof, as the case may be, and such certificate shall be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorized by law to make use of a seal; and such copies so certified shall be called certified copies.
>
> **Explanation**.-- Any officer who, by the ordinary course of official duty, is authorized to deliver such copies, shall be deemed to have the custody of such documents within the meaning of this section."

From a perusal of the said provision, it is clear that when a document is furnished, certifying the same as original, by the authorized officer, it has to be presumed as a certified copy, within the meaning of Section 76 of the Act.

8. Having regard to the fact that the documents sought to be marked are obtained under R.T.I. Act and issued by the authorized officer, certifying the same as copies of originals, as per the records available in the office, the same shall be construed as certified copies. Therefore, as rightly observed by the learned Arbitrator, the witness can be summoned to cross-examine about the documents. Further, the judgment relied upon by the learned counsel for the petitioners/respondents in A.K. BHASKAR RAO's case (supra) would not render any assistance in support of the case of the petitioners/respondents.

9. For the aforesaid reasons, we do not find any merit in these civil revision petitions warranting interference by this Court under Article 227 of the Constitution of India.

10. Accordingly, these civil revision petitions are dismissed, at the admission stage. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A. SHANKAR NARAYANA

10.06.2015.

Msr

HON'BLE SRI JUSTICE R.SUBHASH REDDY

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