

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.2547 OF 2015

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ORDER :

This revision is filed challenging the docket order dated 10.06.2015 in O.S.No.29 of 2011 passed by the Principal District Judge, Nizamabad, whereby the evidence of the defendant was closed due to failure to serve summons to the witness before the trial Court.

At the stage of admission, both the advocates advanced their argument.

The learned counsel for the revision petitioner contended that the petitioner took steps to serve summons on the witness by registered post and the same was returned with endorsement 'as unclaimed' and summons sent through the Court were not yet returned. But still the trial Court closed his evidence and posted the matter for arguments.

Whereas the learned counsel for the respondent while contending that sufficient opportunity afforded to the petitioner to produce witness and brought to the notice of this Court the order passed in I.A.No.1432 of 2014 dated 03.09.2014 where under the same witness was summoned and the petition was allowed but no steps were taken to serve summons on the witness, thereby the trial Court had no option except to close the evidence of the petitioner, accordingly closed the evidence of petitioner. Again, the petitioner filed petition in I.A.No.121 of 2015 for summoning the same witness and the same was allowed on 31.03.2015. But no proper steps were taken to serve summon to the witness and produced before the Court.

As seen from the material on record, the trial Court closed the evidence of defendant for failure to serve summons and produce the witness before the trial Court by the defendant. However, the summons were sent to correct address of the witness by registered post. But they were returned 'as unclaimed' and it is a deemed service under Section 27 of the General Clauses Act. The defendant did not take any steps to compel the witness to appear before the Court under Order 16 Rule 10 of the Code of Civil Procedure (for short 'C.P.C.') and did not avail opportunity afforded to him by summoning the witness in I.A.No.1432 of 2014 and again failed to produce witness even as per the order in I.A.No.121 of 2015. Therefore, it is evident from the material on record that the petitioner is trying to drag on the matter without any reasonable cause. Therefore, I find no error in the order passed by the trial Court warranting interference of this Court by exercising power under Section 115 of C.P.C. Hence, the order passed by the trial Court is upheld.

Accordingly, this civil revision petition is dismissed confirming the docket order dated 10.06.2015 in O.S.No.29 of 2011 passed by the Principal District Judge, Nizamabad. No costs.

Miscellaneous petitions pending if any, shall stand closed.

M.SATYANARAYANA MURTHY, J

Date:14.07.2015

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

CIVIL REVISION PETITION NO.2547 OF 2015

Between:

Syed Mazharuddin

... Petitioner

and

Shakir Hussain

... Respondent

DATE OF JUDGEMENT PRONOUNCED: 14-07-2015

SUBMITTED FOR APPROVAL:

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HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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