

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.1989 of 2016

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed challenging the order dated 19.08.2015 passed in I.A.No.2138 of 2009 in M.V.O.P.No.526 of 2005 on the file of the Motor Accident Claims Tribunal – cum – Chief Judge, City Civil Court, Hyderabad ('the Tribunal', for brevity).

2. The revision petitioner filed the petition before the Tribunal to eschew the cross-examination of P.W.1 – Mohd. Imran, on the ground that in the report of the Advocate Commissioner, the date of recording cross-examination was mentioned twenty days prior to his appointment as Advocate Commissioner and thereby, such recording is not in pursuance of the directions issued by the Tribunal appointing him as Advocate Commissioner to record the cross-examination of P.Ws.1 to 3 and, therefore, sought for such direction to eschew cross-examination of P.W.1.

3. The respondent disputed the said fact while contending that it is only a mistake in mentioning the date of cross-examination and that each page of deposition bears the signature of P.W.1 recorded by the Advocate Commissioner.

4. During hearing, the only ground urged before this Court by Sri Mohd. Azeemuddin Farooqui, learned counsel for the revision petitioner is that the question of recording the cross-examination of P.W.1 by the Advocate Commissioner on 12.02.2008 when he was appointed as Advocate Commissioner on 10.03.2008 does not

arise and recording of cross-examination of P.W.1 by the Advocate Commissioner on 12.02.2008 is not in pursuance of the directions given by the Tribunal and on this ground alone, the cross-examination of P.W.1 can be eschewed. It is further contended that when the signatures on the deposition of P.W.1 recorded by the Advocate Commissioner is disputed, he filed a petition under Section 45 of the Indian Evidence Act, 1872, to send the disputed signatures on the cross-examination recorded by the Advocate Commissioner along with the admitted signatures to the handwriting expert and the same was allowed by the Court below and the said documents were sent to the handwriting expert for his opinion and report.

5. At this stage, the order passed by the Tribunal in a petition filed under Section 45 of the Indian Evidence Act, 1872, is not relevant and if, for any reason, the expert comes to a conclusion that the signatures appearing in the cross-examination of P.W.1 recorded by the Advocate Commissioner are not that of the revision petitioner/P.W.1, the Court may, after careful examination of expert's report, after satisfying itself that the signature of P.W.1 is not appearing on deposition, the Tribunal may eschew the cross-examination of P.W.1 recorded by the Advocate Commissioner. But at this stage, on the ground of mentioning the wrong date of recording cross-examination of P.W.1 by the Advocate Commissioner in his report is not a ground to eschew the cross-examination of P.W.1 recorded by the Advocate Commissioner in I.A.No.2138 of 2009 in M.V.O.P.No.526 of 2005 on the file of the Motor Accident Claims Tribunal – cum – Chief Judge, City Civil

Court, Hyderabad. Therefore, this Court finds that the Tribunal did commit no error in dismissing the Interlocutory Application under challenge. However, consideration of cross-examination of P.W.1 recorded by the Advocate Commissioner in I.A.No.2138 of 2009 in M.V.O.P.No.526 of 2005 is subject to final consideration of the report of the handwriting expert and the order thereon by the Tribunal.

6. With the above observations, the Civil Revision Petition is disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this revision shall stand dismissed.

14th September, 2016.
Bvv

M. SATYANARAYANA MURTHY, J

