

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Civil Revision Petition No.4767 OF 2016

ORDER:

This revision is preferred against the dismissal order dated 14.09.2016 in I.A.No.232 of 2016 in O.S.No.306 of 2014 on the file of the learned XVIII Addl.Senior Civil Judge, City Civil Court, at Hyderabad, by the petitioner/ defendant, seeking to set aside the same.

2. Heard both sides and perused the material on record.

3.The suit O.S.No.306 of 2014 is filed by the revision respondent/ plaintiff. The I.A.No.232 of 2016 is filed by the defendant/ revision petitioner seeking to permit him to represent through General Power of Attorney(for short, 'GPA') holder none other than his brother by name Syed Shah Mahmood Hussaini but the same was dismissed.

4. The impugned order of the lower Court shows that the defendant as D.W.1 filed his chief affidavit and taken on oath but without facing cross-examination, at that stage he wants to represent through GPA holder. On perusal of the record, there are no sound or cogent reasons even to permit him to represent through GPA. Thereby the impugned dismissal order passed by the lower Court no way requires interference by sitting against it in the revision, but for to say it is not a bar to file fresh application by giving cogent reasons and the need to represent within the scope of Rule 32 of the Civil Rules of Practice, to permit the GPA holder.

5. Law is very clear that the G.P.A. holder cannot depose the facts within the personal knowledge of the principal though the facts known to him he can depose and for that known facts to depose filing of

G.P.A. and recognizing if any or not, makes no difference as he can depose like any other witness on behalf of the defendant.

6. However it is made clear by directing the trial Court to set aside the closed order of the evidence of D.W.1, by reopen the same and permit his further evidence by fixing any nearer date to complete his evidence if not already re-opened and recorded the D.W.1's evidence from the submission by both sides that such petitions were filed and allowed subsequently.

7. Having regard to the above, the revision is disposed of. No order as to costs. Pending miscellaneous petitions, if any, shall stand closed.

Date:08.11.2016
b/ o. Vvr



Dr. B. SIVA SANKARA RAO, J