

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Civil Revision Petition No.3456 of 2014

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, by the 1st defendant/revision petitioner is directed against the orders dated 26.07.2014 of the learned XIII Additional Chief Judge, (Judge, Fast Track Court) holding Full Additional Charge of the post of XII Additional Chief Judge, (Judge, Fast Track Court) City Civil Court, Hyderabad passed in I.A.No.795 of 2012 in O.S.No.171 of 2009 filed under Rule 32 of the Civil Rules of Practice requesting to permit V. Meenender Goud to act as the GPA Holder of the petitioner/1st defendant in the above suit and prosecute the defence in the said suit on her behalf.

2. I have heard the submissions of the learned counsel for both the sides. I have perused the material record.

3. The facts necessary for consideration, in brief, are as follows:

The plaintiff had brought a suit against the petitioner/1st defendant and another and sought a decree for recovery of money in a sum of Rs.14 lakhs and odd against the 1st defendant. After the suit summons are served on the 1st defendant, the aforementioned application was filed requesting to accord permission to the GPA holder of the 1st defendant to enter appearance and do the needful in the matter. Though no counter is filed, that petition was resisted by the plaintiff. The trial Court having perused the contents of the affidavit and having observed that the affidavit is not revealing any reasons as to why the 1st defendant wants to be represented by a GPA Holder had held that there are no grounds to accept the request and had accordingly dismissed the petition. Therefore, the 1st defendant is before this court.

4. The learned counsel for the 1st defendant, having read the affidavit filed in support of the petition, had submitted that it is stated therein that the power

of attorney is 'valid and existing'. Having drawn the attention of this Court to the contents of the notarized copy of the power of attorney filed along with the petition, he had further contended that there are necessary recitals in the power of attorney, which would show as to why the 1st defendant was constrained to give the power of attorney to her own son. He would also contend that the 1st defendant is a lady aged 74 years and that at the time of execution of the power of attorney she had suffered pelvic fracture and fractures of bones of both the hips and that she was advised to take bed rest and as such, the power of attorney was executed. He would also point out from the contents of the plaint that whenever and wherever there is a reference to the 1st defendant, there was also a reference in the plaint averments to her son, and would further submit that the said averments would also indicate that her son, who is her GPA Holder, is having personal knowledge of the affairs even according to the averments in the plaint. He finally urges that, in the facts and circumstances of the case, no prejudice would be caused, if the prayer is granted.

5. On the other hand, the learned counsel for the plaintiff, while supporting the orders of the court below and having opposed for the grant of the request of the petitioner/1st defendant would contend that the court below had rightly held that the affidavit is bereft of the details as to under what circumstances the power of attorney was executed.

6. I have bestowed my attention to the facts. I have noted the submissions. I have carefully gone through the affidavit, the copy of the power of attorney and also the pleadings of the parties in the suit. In the affidavit filed in support of the request for grant of permission to the 1st defendant to be represented by her son and GPA holder, it is sufficiently stated that the power of attorney is 'valid and existing'. And, a reading of the copy of the power of attorney filed along with the petition also would show that the GPA holder is authorized to sign vakalaths and pleadings and enter appearance on behalf of the 1st defendant and prosecute the defence and

that it also contains the necessary other recitals. In the well considered view of this court, on a conjoint reading of the affidavit and the copy of the power of attorney, it is obvious that the factual and legal requirements for according permission are satisfied. Therefore, it follows that the order impugned, which was passed by the trial Court by only looking at the affidavit, calls for interference.

7. In the result, the Civil Revision Petition is allowed and the impugned order is set aside. I.A.No.795 of 2012 is allowed according permission to the GPA holder of the 1st defendant to represent her in the suit. Since the written statement is already filed and the suit is of the year 2009, the trial court is directed to dispose of the suit as expeditiously as possible, preferably, within four months from the date of receipt of a copy of this order.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this revision shall stand closed.

M. SEETHARAMA MURTI, J

25th April, 2016
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