

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P. No.4983 OF 2011

ORDER:

The Civil Revision Petition is filed impugning the order dated 14.09.2016 passed in I.A. No.356 of 2016 in O.S. No.1721 of 1996 on the file of Additional Judge-cum-VI Senior Civil Judge, City Small Causes Court, Hyderabad.

2) Heard learned counsel for the revision petitioners and learned counsel for the respondents. Perused the material on record.

3) In fact Rule 129 of Civil Rules of Practice mandates the procedure to be followed in seeking to summon for production of records in the custody of a Public Office other than a Court for which Rule 128 of C.R.P speaks. The record to be summoned pursuant to the provisions of the Income Tax Act is from the public office contemplated by Rule 129 C.R.P.

4) A perusal of the affidavit in I.A. No.356 of 2016 in O.S. No.1721 of 1996 no way whispers, but for saying copies of documents were refused to give by the income tax authorities by the letter dated 03.06.2003, as to any application is properly filed and still it was refused and as to it was for summoning of original and said original is required and if not a certified copy within the definition of Sections 74 to 77 of the Indian Evidence Act can be obtained or not and if it can be obtainable whether applied and obtained or not, for if in such event and on refusal without any reason, then only invoking of the provision arises. Once the affidavit petition is laconic for non-mention of the required facts including not in prescribed format, there is nothing to interfere

with the order of the lower Court, but for to say liberty is available by virtue of the order to make a fresh application in compliance with the requirements for consideration afresh on merits.

5) Accordingly and in the result, the revision is disposed of before admission and before notice to respondents. It is made clear that earlier impugned order no way come in the way to the rights of the parties to file fresh application by virtue of this order. On such filing of the fresh application, the lower Court is directed to consider on merits afresh. No order as to costs.

6) Consequently, pending miscellaneous petitions, if any, shall stand dismissed.

Dt.21.11.2016
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Dr.JUSTICE B. SIVA SANKARA RAO

