

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION Nos.5396 and 5434 of 2016

COMMON ORDER:

These revisions are filed aggrieved by the orders dated 12.09.2016 in I.A.Nos.418 and 417 of 2016 in O.S.No.207 of 2011 on the file of Principal Junior Civil Judge, Miryalaguda, Nalgonda District.

2. Pending the suit for declaration of the correct date of birth maintained by the plaintiff, against 1) The Commissioner and Director of School Education, Andhra Pradesh, 2) The Secretary, Board of Secondary Education, Andhra Pradesh, 3) The District Educational Officer, Nalgonda and 4) The Head Master, S.P.R.School of Excellence, Miryalguda Town and Mandal, Nalgonda District, in the course of evidence, plaintiff cause examined after his evidence Dr.K.Ashok Kumar of Sri Venkata Nursing Home at Miryalguda, examined as PW2 on 23.07.2015, who deposed by filing Ex.A1-certificate of Birth said to have issued by him. The certificate speaks Nallapu Padmavati W/o Krishnaiah delivered a male child on 15.07.1991 in his nursing home. In the cross examination of PW.2 supra he admitted about interpolation of name of the so called male child as N.Bala Krishna, which is not the original

writing, when the certificate was issued but subsequently, from the question by Court and on reporting no re-examination, evidence of said Doctor was completed. It is later the plaintiff filed applications to reopen the evidence and recall of PW.2 for further examination saying because PW.2 deposed in the cross examination that he did not bring the original birth record of the hospital maintained in regular course to establish the factum is required and as such it is necessary to cause examine him with reference to original record rather to rely on Ex.A1, for not competent to issue any certified copy. The same after contest was ended in dismissal and impugning the same the two revisions are filed.

3. Heard both sides.
4. Leave about the merits of the matter including of maintainability of the suit claim and the factum of non-intimation of birth if any to the Municipal Authorities or Panchayat Authorities, even a private nursing home Doctor is bound to do, once the doctor deposes that they maintained every birth in a register to be kept for that purpose in regular course and that register is to be produced to establish if at all the birth of the male child dated 15.07.1991 to the parents of the plaintiff, the trial Court should have considered recall of PW.2 to give further evidence by production of the original

register of births, maintained in the hospital including on dated 15.07.1991 for birth of a male child to the parents of the plaintiff.

5. Having regard to the above, the dismissal orders of the lower Court are set aside and the petitions are allowed, directing the lower Court to permit the plaintiff to recall PW.2 to examine him with reference to the original birth entries the book maintained if any, in the regular course of business from the years 1988 to 1995 to show birth of any male child to the parents of the plaintiff in that hospital on 15.07.1991.

6. Accordingly, the Civil Revision Petitions are allowed, subject to payment of costs of Rs.1,000/- (Rupees One thousand only) to the Legal Services Authority. No order as to costs.

7. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

Date:01.12.2016
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