

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P. No.2465 OF 2015

ORDER:

The Civil Revision Petition is maintained by defendant No.1 impugning the order passed on 28.01.2015 in I.A. No.50 of 2014 in O.S. No.2128 of 2004 on the file of IX Additional Senior Civil Judge, City Civil Court, Hyderabad.

2) The revision petitioner is the defendant No.1 in O.S. No.218 of 2004 and respondent No.1 in I.A. No.50 of 2014. I.A. No.50 of 2014 was allowed on 28.01.2015 permitting the plaintiff to represent through G.P.A Holder by recognizing the GPA holder under Rule 32 of Civil Rules of Practice, there is nothing so far as party to be permitted to represent through GPA holder under Rule 32 C.R.P concerned but for, if any, condition to be imposed of not to withdraw the GPA without prior permission of the Court. However, the fact remains to decide the dispute in the revision is whether the G.P.A holder of plaintiff can be permitted to come to witness box, when the plaintiff himself come to witness box and deposed even in the cross examination in part and later failed to attend.

3) The 1st respondent—plaintiff even served failed to attend, hence taken as heard. Heard learned counsel for the revision petitioner/ defendant No.1 and perused the material on record.

4) The plaintiff had already come to witness box and having faced the cross examination at his choice in part, later failed to attend and might be with an assumption and that the evidence on record without facing further cross examination being treated with

no value totally and to cause examine the G.P.A holder to wriggling out from the admissions. It is also the revision petitioner's counter contest before the lower Court.

5) There are two aspects to be kept in mind in this regard, one is that evidence in chief even taken on record is not a complete evidence without cross examination and if the party failed to attend, the Court can consider the evidence in chief taken with no value. However, having faced cross examination and therein certain admissions made and further failed to attend, unless the admissions are explained away same cannot be ignored from consideration in appreciation of the evidence and in such situation, his cross examination cannot be treated with no value, but for not to consider his chief examination affidavit contents save to the extent covered by the cross examination. It is needless to say, if plaintiff unable to attend, by such medical certificate and proof, at best to face cross examination can apply to the trial Court to appoint an advocate commissioner to record his further evidence for trial Court to consider, including as to bearing expenses of defendant and his counsel to attend the place of recording further evidence of plaintiff, by court commissioner.

6) Having regard to the above, such a course to agitate or submit before the lower Court is by left open to the parties, the lower Court, by keeping the above law in mind, shall make every endeavour in view of the facts of the case for early disposal of the matter.

7) Accordingly, revision is disposed of. No order as to costs.

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

Dr.JUSTICE B. SIVA SANKARA RAO

Dt.31.08.2016
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HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO



Date:31.08.2016

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