

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.9012 OF 2017

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for respondents.

2. It is the case of the petitioner that he lost two kidneys and he was admitted in a private hospital in Guntur and he was advised to have transplantation of kidney. One N.Vijay Kumar voluntarily came forward to donate his kidney free of cost. The said donor's kidney was found suitable to the petitioner. The petitioner submitted an application to the 2<sup>nd</sup> respondent and when the 2<sup>nd</sup> respondent did not pass any order, the present writ petition is filed.

3. In view of the urgency of the case, learned Government Pleader obtained written instructions from the 2<sup>nd</sup> respondent. The 2<sup>nd</sup> respondent submitted that one N.Vijay Kumar, male, aged about 42 years and resident of Machilipatnam, Krishna District, wanted to be the donor, during the interview, he stated that his mother expired and the father could not attend the meeting, but in the affidavit filed by him, it was stated that his both parents are no more. In view of the contradictory statements made by the donor, the 2<sup>nd</sup> respondent got a doubt and hence, the case was kept pending, but it was not rejected.

4. Learned counsel for the petitioner submits that an appropriate affidavit from the wife of the donor was already submitted to the 2<sup>nd</sup> respondent and in the case of a married person, consent of the wife of donor is sufficient in compliance with the rules. The learned Government Pleader also submits that as per the guidelines for processing the application, in the case of married person, a notarised affidavit on Rs.10/- value Non-judicial stamp paper expressing the consent of the spouse of the prospective donor and availability of the said spouse at the time of the interview and also during surgery is required.

5. The relevant guideline reads as follows:

“The donor’s next of kin like father, mother, brother or sister in that order if unmarried and wife/husband if married should also give a notarised affidavit on Rs.10/- value Non-judicial stamp paper expressing their consent for the prospective donor to donate his/her kidney and he/she should be available at the time of interview and also during surgery.”

In view of the above, the requirement of consent of the next kin is required only in the case of unmarried person, but not in the case of married person. In the case of married person, consent of the spouse is required.

6. In the circumstances, in view of the affidavit filed by the donor, as well as by his wife, liberty is given to the petitioner to take them to the 2<sup>nd</sup> respondent and the 2<sup>nd</sup> respondent after interviewing them shall pass appropriate orders, in accordance with

law, for transplantation of kidney offered by the donor, within a period of one week from the date of receipt of a copy of this order.

7. Accordingly, the Writ Petition is disposed of.

Miscellaneous Petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

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A.RAMALI NGESWARA RAO, J

Date:16.03.2017

Note: Furnish CC by tomorrow

(B/O)  
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