

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

CrI.R.C.No.1711 of 2017

ORDER:

The unsuccessful respondent in D.V.C.No.93 of 2015 filed this criminal revision case, under Sections 397 & 401 of the Code of Criminal Procedure, 1973, assailing the orders, dated 29.05.2017, of the learned II Additional District & Sessions Judge, Guntur, in CrI.A.No.208 of 2017.

By the said orders, the learned Additional Sessions Judge while dismissing the said appeal confirmed the order, dated 30.03.2017, of the learned II Additional Junior Civil Judge, Guntur, holding Full Additional Charge of the post of the learned Judicial Magistrate of First Class, Special Mobile Court, Guntur, passed in CrI.MP.No.1325 of 2017 in the afore-stated DVC.

I have heard the submissions of *Sri Venkateswarlu Kesamsetty*, learned counsel for the petitioner, and of *Sri M. Pithaiah*, learned counsel for the respondents 2 to 4. I have perused the material record.

The facts, in a nutshell, are as follows: - 'In the pending DVC, the petitioner filed a petition to reopen the DVC to enable him to adduce evidence on his side. On resistance by the respondents 2 to 4 herein, the said petition was dismissed. Aggrieved thereof, the petitioner preferred an appeal before the Court below. As already noted, by the order impugned in this revision, the said appeal was also dismissed. Therefore, the petitioner is before this Court.'

Learned counsel for the petitioner would submit that several opportunities were given to the petitioners in the DVC, that is, respondents 2 to 4 herein, to adduce evidence on their side and that on one hearing date, for non appearance of the petitioner herein, that is respondent in the DVC, evidence was closed without granting a reasonable and fair opportunity and that the impugned order was passed by the appellate Court confirming the order of the trial Court wherein the request was refused only for the reason that there was a direction by this Court to dispose of the

DVC within a time frame. He further submits that if no opportunity is granted, the petitioner suffers serious and irreparable loss.

Learned counsel for the respondents 2 to 4 while supporting the orders of the Courts below would submit that the Courts below are justified in passing the impugned orders.

In the considered view of this Court, when the matter is before the trial Court and when no opportunity at all was given to the petitioner to adduce evidence on his side, it is just and fair to grant him an opportunity as such a course sub-serves the ends of justice. However, to compensate the hardship on account of the delay in disposal of the DVC, this is a fit case to grant the relief after imposing certain terms.

In the result, the Criminal Revision Case is allowed and the order impugned of the learned II Additional District & Sessions Judge, Guntur, confirming the order of the learned II Additional Junior Civil Judge, Guntur, holding Full Additional Charge of the post of the learned Judicial Magistrate of First Class, Special Mobile Court, Guntur, passed in CrI.MP.No.1325 of 2017 in DVC.No.93 of 2015 is set aside and as a sequel, CrI.MP.No.1325 of 2017 is allowed subject to the condition that the petitioner shall pay costs of Rs.5,000- [Rupees Five Thousands only] to the respondents 2 to 4 herein through their learned counsel in the proceedings before the trial Court within two weeks from the date of receipt of a copy of this order. On compliance of the said condition, the trial Court shall proceed further in the matter in accordance with the procedure established by law. However, on failure of the petitioner to comply with the afore-said condition, the revision case shall stand dismissed and the orders impugned in the revision shall stand revived.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

19.07.2017
Vjl