

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**CIVIL REVISION PETITION NO. 2269 OF 2016**

**ORDER:**

This civil revision petition is filed under Article 227 of the Constitution of India, challenging the order passed in CFR No.1136 of 2016 in MVOP No.371 of 2011 passed by the I Additional District Judge, Ongole, Prakasam District dated 11.03.2016.

The petitioner filed an application under Order XXVI Rule 2 of C.P.C to appoint an Advocate Commissioner to record the evidence of 5 doctors practicing at various stations who treated the petitioner, namely, Dr. P. Chandrasekhara Rao, Dr. K.S. Vara Prasad, Dr. Madhu Kiran Reddy, Dr. Noel John and Dr. G. Srinivas, alleging that their evidence in the motor accidents claim is necessary to prove the disability and treatment. But the Tribunal dismissed the application by applying Rule 55 of A.P. Civil Rules of Practice and Circular Orders, 1980, which mandates filing of separate applications for distinct reliefs. The Tribunal thought that appointment of an Advocate Commissioner for examination of five doctors amounts to claiming multiple reliefs, since the witnesses proposed to be examined are five in number. The Tribunal on misconception concluded that the reliefs claimed in the petition are multiple, though relief is only to appoint an Advocate Commissioner, but to record the evidence of more than one witness. That does not amount to claiming multiple reliefs and thereby bar under Section 55 of Civil Rules of Practice would not come in the way of appointing an Advocate Commissioner. Even

assuming for a moment that the petitioner claimed multiple reliefs, in such case, the Court has to direct the applicant to confine the application to one of such reliefs, unless the reliefs are consequential and require them to file separate application in respect of each relief. Instead of following the said procedure under Rule 55 of Civil Rules of Practice, the Tribunal simply concluded that the petitioners claimed multiple reliefs and in fact, the relief claimed is only to appoint Advocate Commissioner to examine five witnesses. Hence, the conclusions arrived by the Tribunal are erroneous and thereby liable to be set-aside.

Accordingly, the civil revision petition is allowed setting aside the order passed in CFR No.1136 of 2016 in MVOP No.371 of 2011 passed by the I Additional District Judge, Ongole, Prakasam District dated 11.03.2016, directing the Tribunal to appoint an Advocate Commissioner to record evidence of 5 doctors of various stations who treated the petitioner, viz., Dr. P. Chandrasekhara Rao, Dr. K.S. Vara Prasad, Dr. Madhu Kiran Reddy, Dr. Noel John and Dr. G. Srinivas within fifteen days from the date of receipt of this order.

With the above direction, the civil revision petition is allowed.

Consequently, miscellaneous applications, pending if any shall also stand closed. No costs.

---

**JUSTICE M. SATYANARAYANA MURTHY**

Date:02.06.2017

SP