

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

C.R.P.No.4571 of 2016

ORDER

This revision is directed against the order dated 29.04.2016 passed by the learned Senior Civil Judge, Sompeta, in I.A.No.93 of 2014 in SOP No.17 of 2014, where-under the learned Judge gave a direction to the 2nd respondent-BSNL not to disburse the amount to the 1st respondent until further orders.

2. The petitioner herein filed S.O.P.No.17 of 2014 for grant of Succession Certificate in order to receive the death and pensionary benefits of her husband, by name, Chapara Bhaskara Rao, who died on 08.02.2013 while working in the department of BSNL. She states that she is the legally wedded of late Bhaskara Rao and the 1st respondent is his mother and the 2nd respondent is his concubine. By order dated 23.07.2014, the Court below granted Succession Certificate in favour of petitioner declaring her as only legal heir of said Bhaskara Rao. Thereafter, when the 1st respondent-mother approached the 3rd respondent-BSNL, she came to know about the issuance of succession certificate in favour of petitioner. Hence, the 1st and 2nd respondents filed I.A.Nos.93 and 94 of 2014 to grant stay directing the 3rd respondent-District Manager, BSNL, Srikakulam, to restrain from disbursing the monetary benefits to the petitioner in SOP and to set aside the order dated 23.07.2014 passed in SOP No.17 of 2014 and permit them to proceed with trial, respectively. Pending disposal of I.A.No.94 of 2014, the Court below, by order impugned, granted stay directing the 3rd respondent not to disburse

the amount to the petitioner until further orders. Aggrieved by the same, the present revision is filed.

3. Learned counsel for petitioner submits that the stay order granted by the Court below cannot be sustained for the reason that the Court below lacks inherent jurisdiction to entertain the stay petition in I.A.No.93 of 2014 since I.A.No.94 of 2014 filed for setting aside the succession certificate is pending consideration. He further submits that Section 383 of the Indian Succession Act narrates the grounds on which the succession certificate can be revoked and even according to the averments made in I.A.No.94 of 2014, there are no grounds to set aside the succession certificate and therefore, the Court below ought not to have entertained I.A.No.93 of 2014 and granted stay.

4. Learned counsel for 2nd respondent submits that the petitioner obtained succession certificate, by way of an *ex-parte* order, fraudulently suppressing the material facts.

5. Having perused the entire material on record and heard the submissions of the counsel for both sides, I am of the opinion that the order passed by the Court below granting stay cannot be found fault with, for the reason that the stay was granted by way of interim arrangement pending disposal of I.A.No.94 of 2014 filed for setting aside the succession certificate granted in favour of the petitioner. The questions as to whether such a petition is not maintainable in the Court below which granted the succession certificate or whether the respondents have made out sufficient grounds to revoke or set

aside the succession certificate as narrated under Section 383 of Indian Succession Act, are the questions to be decided by the Court below where I.A.No.94 of 2014 is pending. Therefore, without going into the merits of the matter, I deem it appropriate to direct the Court below to dispose of I.A.No.94 of 2014 in accordance with law after hearing the submissions of both parties.

6. In that view of the matter, the Civil Revision Petition is disposed of, directing the Court below to dispose of I.A.No.94 of 2014 on merits, in accordance with law, after affording an opportunity of hearing both sides, within a period of one month from the date of receipt of a copy of this order. No order as to costs. Miscellaneous petitions, if any, pending in this revision shall stand closed.

16th June, 2017
sj

M.S.K.JAISWAL,J

