

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Civil Revision Petition No.620 of 2017

ORDER:

This civil revision petition, under Article 227 of the Constitution of India, by the unsuccessful 1st respondent is directed against the orders, dated 22.12.2016, of the learned I Senior Civil Judge, City Civil Court, Hyderabad, passed in I.A.No.717 of 2016 in S.O.P.no.95 of 2013 filed under Order XI Rule 12 read with Section 151 of the Code of Civil Procedure, 1908, filed by the petitioners requesting to direct the 1st respondent/ revision petitioner herein to produce the chit agreements with chit numbers as mentioned in the petition.

2. I have heard the submissions of *Sri Pawan Kumar Agarwal*, learned counsel for the petitioners, and of *Sri Kiran Palakurthi*, learned counsel for the respondents 1 to 4. The 5th respondent/ Bank is stated to be not a necessary party. I have perused the material record. The parties in this revision shall hereinafter be referred to as they are arrayed in the SOP before the Court below.

3. The facts, which are necessary to be stated as a preface to this order, in brief, are as follows:

The respondents 1 to 4 herein are the petitioners in the afore-stated succession OP. They filed the said OP for declaration that they are the successors of late Dev Kishan Varma @ Raju Soni and his sole proprietary concern, Durga Jewellers; and, for directions to the 1st and 2nd respondents to respectively pay Rs.35,00,000/- and Rs.40,397/- along with interest accrued on the respective amounts which they owed to the said late Dev Kishan Varma @ Raju Soni and Durga Jewellers and to issue a succession certificate in the name of the petitioners entitling them to receive the said amounts from the said respondents. The 1st respondent is the revision petitioner/ chit fund company and the 2nd respondent is the Axis Bank.

3.1 In the pending OP, the petitioners filed the aforesaid interlocutory application to direct the 1st respondent/ chit fund company to produce the chit agreements with the following numbers.

S.No.	Name & Number of the Chit	Quantum of Chit amount
1	LT9m-25	Rs. 5,00,000/- (Rupees Five Lakh only)
2	LT9m-43	Rs. 5,00,000/- (Rupees Five Lakh only)
3	LT3s-48	Rs. 10,00,000/- (Rupees Ten Lakh only)
4	LT3s-15	Rs. 10,00,000/- (Rupees Ten Lakh only)
5	E16-06	Rs. 5,00,000/- (Rupees Five Lakh only)

The said petition was resisted by the 1st respondent/ chit fund company. However, on merits and by the orders impugned in this revision, the Court below allowed the petition. Hence, the aggrieved 1st respondent/ chit fund company is before this Court.

4. The case of the petitioners in support of their request for production of the chit agreement by the 1st respondent/ chit fund company, in brief, is as follows:

They are the legal representatives/ legal heirs and successors-in-interest of late Dev Kishan Varma @ Raju Soni and his sole proprietary concern, M/s. Durga Jewellers. On his death, they filed the OP for grant of succession certificate entitling them to receive the amounts due and payable by the 1st respondent/ chit fund company and the 2nd respondent, Axis Bank, to the said deceased, late Dev Kishan Varma and his sole proprietary concern, M/s. Durga Jewellers. The 1st respondent raised a false plea during the cross-examination of the 1st petitioner that late Dev Kishan Varma and Raju Soni are not one and the same person. The said defence is a blatant lie and is intended to knock away the property rights of these petitioners in a fraudulent manner and with a dishonest intention. The 1st respondent in its pleadings has not stated that the chits with the aforesaid chit numbers do not belong to the chit fund company. During the course of cross-examination of the witnesses examined on behalf of

the 1st respondent, certain admissions were made regarding the names, the description of the chit subscribers and the names of the nominees that will be mentioned in the chit agreements. The chit agreements are in exclusive possession of the 1st respondent/chit fund company. If the original chit agreements, which are in possession of the 1st respondent/chit fund company, are produced into Court, they will clinch the issue beyond any doubt. Hence, the present petition is filed.'

5. The case of the 1st respondent/chit fund company and the submissions made on its behalf, in brief, are as follows:

The trial Court erroneously allowed the petition of the petitioners and directed this respondent to produce the chit agreements, though in a succession OP, production of such documents by the 1st respondent is unwarranted and is not necessary as any such evidence in form of chit agreements is irrelevant for deciding the entitlement of the petitioners for issuance of a succession certificate. The petitioners are strangers and such strangers are not entitled to seek the 1st respondent/chit fund company to produce any documents of the company and interfere with its business. This 1st respondent has to maintain secrecy with regard to the documents of its customers and such details cannot be disclosed to third parties/strangers, that too, in a OP filed for grant of succession certificate. And, when the relief claimed is not 'recovery of money', there is no need to direct this respondent/chit fund company to produce any documents like the chit agreements. Production of such documents causes prejudice to this respondent/chit fund company.

6. At the hearing, learned counsel for the revision petitioner reiterated the case of the 1st respondent/chit fund company, whereas the learned counsel for the respondents, i.e., the petitioners in the OP supported their case and also

the order of the Court below passed in favour of the petitioners in the succession OP.

7. I have given earnest consideration to the facts and submissions.

8. In this application, which is filed by the petitioners in the succession OP requesting to give a direction to the 1st respondent/ chit fund company to produce certain chit agreements, the details of which are furnished by the petitioners, there is no need to go into the merits of the main OP and record any findings, which will have a bearing on the merits of the points for consideration that the trial Court has to determine on merits after full-fledged enquiry. Whether the petitioners would be entitled to the reliefs claimed and the succession certificate are questions, which will have to be decided by the trial Court, as already noted, on merits, after full-fledged enquiry. One of the contentions of the petitioners is that they are the legal representatives/ legal heirs and successors-in-interest of late Dev Kishan Varma @ Raju Soni and that therefore, they are entitled to receive the amounts due and payable to the said deceased Dev Kishan Varma @ Raju Soni and hence, they filed the succession OP for grant of a succession certificate to enable them to collect such amounts due and payable to the deceased by the 1st respondent/ chit fund company and the 2nd respondent/ Axis Bank. The 1st respondent, it appears, is *inter alia* contending that late Dev Kishan Varma and Raju Soni are not one and the same person. Per contra, the case of the petitioners is that in the chit agreements, the name of the deceased was correctly mentioned and that if the chit agreements are produced, they will clinch the issue beyond doubt and such an evidence would assist the Court in arriving at the truth. It appears from the record and it is borne out by the order impugned that the petitioners already produced the chit books and some documents besides income tax returns during their oral evidence and filed the said documents also so as to establish their contentions. According to them, a substantial sum of Rs.35,00,000/- is

due and payable by the chit fund company to the deceased and that they are entitled to a succession certificate regarding that amount also. The 1st respondent/chit fund company is denying the petitioners' entitlement to any reliefs, which they had claimed in the succession OP. The trial Court also noted that even though the provision of law mentioned in the petition is incorrect, the Court can apply the correct provision of law and grant the relief and accordingly granted the relief to the petitioners as the production of the documents by the 1st respondent/chit fund company as sought for by the petitioners may lay bare the truth before the Court below and would be helpful in arriving at a just decision in the matter.

9. On the above analysis of facts and contentions, this Court finds that the documents if produced would be helpful to the trial Court in effectively adjudicating the *lis* and that the revision is devoid of merit and that the trial Court is justified in passing the order impugned in this revision.

10. Accordingly, the Civil Revision petition is dismissed.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

03rd November, 2017
RAR

M. SEETHARAMA MURTI, J