

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.6387 of 2016

ORDER:

Heard both sides.

The only issue involved is the correctness of the impugned dismissal order of the lower Court, dated 03-11-2016 under Rule 32 of the Civil Rules of Practice on the application of the plaintiff to represent the plaintiff through the GPA holder-cum-son.

The Hon'ble Apex Court in ***Janki Vashdeo Bhojwani and another v. Indusind Bank Limited and others***¹, categorically observed the scope of Order III Rules 1 and 2 of Code of Civil Procedure apart from any Rules thereunder, that a GPA holder cannot speak the facts, which are not within his personal knowledge but for those which he can speak out of personal knowledge. When such is the case, it is premature to expect as to what facts the GPA holder can depose but for left open to decide by the trial Court during trial and while recording the evidence of GPA holder to bring on record from relevancy and admissibility of evidence and also if at all to draw any inference from non-examination of the plaintiff without any proof of inability to depose even by Commission,

¹ AIR 2005 Supreme Court 439

leave about without even GPA, any witness including the son of the plaintiff can speak those facts within his personal knowledge.

Accordingly, the Civil Revision Petition is allowed in part, by permitting the GPA holder to represent the plaintiff subject to conditions referred supra. There shall be no order as to costs.

Miscellaneous Petitions pending consideration, if any, in the Civil Revision Petition shall stand closed in consequence.

March 20, 2017

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Dr. B. SIVA SANKARA RAO, J



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