

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No. 6152 of 2016

ORDER:

Heard learned counsel for the petitioner and learned counsel for respondent No.1.

The petitioner herein is defendant No.1 in O.S.No.173 of 2010 on the file of the Principal Senior Civil Judge, Ongole. The suit was filed for the relief of declaration of title and recovery of possession. In the said suit, third party filed I.A.No.1929 of 2015 seeking to recognise his General Power of Attorney as agent of respondent No.1-plaintiff and permit him to continue the suit proceedings on the ground that respondent No.1 is not in a position to conduct the proceedings. GPA was executed on 12.07.2012 to do all the acts and deeds relating to the suit. The application was opposed by the petitioner stating that respondent No.1-plaintiff filed an affidavit in lieu of chief-examination on 18.03.2011 and later on, she attended the Court on 29.03.2012 and marked Exs.A1 to A9. It was stated that respondent No.1 filed I.A.No.742 of 2013 on 07.06.2013 after executing the GPA on 12.07.2012 and I.A.No.1929 of 2015 on 18.12.2015 and there is a long gap between the date of filing of the application and execution of GPA. The GPA Holder is a resident of Ponnur Village, Guntur District, whereas respondent No.1 is residing in Chirala, Prakasam District.

On an earlier occasion, when trial Court allowed the application on 29.12.2015, CRP No.1235 of 2016 was filed on the ground that no opportunity was given to the petitioner-defendant

No.1. This Court disposed of the said CRP setting aside the order, dated 29.12.2015 and remanding the matter to the trial Court to pass fresh order in accordance with law after giving opportunity to the petitioner. After remand, the aforesaid counter was filed by respondent No.1 and on considering the facts, the trial Court allowed the application on 11.11.2016 permitting the GPA to continue the proceedings on behalf of respondent No.1. The said order is challenged in the present revision.

Learned counsel for the petitioner submits that while continuing the proceedings in the suit, the GPA Holder cannot step into the shoes of the plaintiff and his role is limited and he should confine his evidence within the limited role assigned to him and recognised by the Courts. The trial Court after relying on the relevant decisions, passed the order impugned observing that allowing the GPA to continue the suit proceedings will not amount to admitting whatever he says and the petitioner-defendant No.1 is entitled to object if he says anything as if he was the plaintiff and stepping into the shoes of the plaintiff.

In view of caution exercised by the trial Court, this Court sees no reason to interfere with the order impugned.

The civil revision petition is accordingly dismissed.

Miscellaneous petitions, if any, pending in this revision shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO,J

Dt:07.04.2017

kdl

