

HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

C.R.P.Nos.1772 AND 1789 OF 2018

COMMON ORDER:

Heard Sri Mohd. Nasrullah Khan, learned counsel for the petitioners, and Sri Shaik Khalid, learned counsel for the respondents – Caveators, however, his name is not printed in the cause list.

Precisely on the ground that the affidavit does not satisfy the requirements of Rule 33 of the Civil Rules of Practice filed by the petitioners, who are the revision petitioners herein, before the learned Additional Family Court, City Civil Court, Hyderabad, by the order dated 27.12.2017 in I.A. No.1146 of 2017 in O.P. No.1011 of 2015, the trial Court rejected their request and dismissed the application.

One of the reasons shown by the learned counsel for the petitioners is that despite several adjournments were granted to the petitioners, none were present and none appeared, and therefore, the Court treated the arguments of the petitioners as heard by docket order dated 22.12.2017 and on hearing the learned counsel for the respondents, passed the said aforesaid order under revision.

Learned counsel for the revision petitioners drawing attention of this Court to a copy of the General Power of Attorney (GPA), submitted that the original GPA was filed before the trial Court and the Court ought to have looked into the original GPA and search out if any reasons as required under Rule 33 of CRPC are available, but the

trial Court has not done so. There is no reference to the GPA being filed and no reasons were assigned.

Under these circumstances, to protect the interest of the revision petitioners, it is reasonable to afford an opportunity of being heard to the petitioners. Hence, it is desirable to set aside the order passed by the Court below and accordingly set aside restoring I.A.No.1146 of 2017 to its original file with a direction that the learned counsel for the petitioners shall represent before the Court below on the next date of hearing that will be fixed by the trial Court. The trial Court is directed to dispose of the application within a month, in any event, from the date of receipt of a copy of this order by fixing the date of hearing.

Turning to CRP No.1789 of 2018, the very same petitioners challenged the order passed in an application under Order - IX Rule 7 of the Code of Civil Procedure, 1908, whereby the trial Court rejecting the reasons shown by the petitioners, dismissed the application in I.A. No.538 of 2017 by the order dated 27.12.2017.

Several grounds are made in the grounds of revision and some observations have been made in paragraph Nos.3 and 4 of the order under revision. The order is liable to be set aside on the same grounds as have been mentioned.

Accordingly, the order under challenge is set aside remanding the matter to the Court below restoring I.A. No.538 of 2017 in O.P. No.1011 of 2015 to its original file.

With the aforesaid directions, both the Civil Revision Petitions are disposed of. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the present revision petitions stand closed.

JUSTICE A.SHANKAR NARAYANA

19th March, 2018
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