

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

Civil Revision Petition No.3046 of 2018

ORDER:

Aggrieved by the order dated 23.04.2018 in I.A.No.129 of 2018 in O.S.No.200 of 2011 passed by the learned Senior Civil Judge, Suryapet, dismissing the petition filed under Order VII Rule 14 CPC to receive the documents, the instant CRP is filed by the petitioner.

2) The parties are referred as they were arrayed in the suit before the Trial Court.

3a) The petitioner/plaintiff filed the suit against the respondents/defendants for recovery of money and thereafter he fell sick and since 2014 he is taking treatment in SVS Institute of Neuro Sciences, Hyderabad and due to neuro problem he was afflicted with paralysis and his speech was affected and he lost his memory and unable to recollect the things properly though he is taking treatment. He was examined as PW1 on commission and his daughter—Niharika was examined as PW2 in part. To prove his illness and health condition the medical record pertaining to his treatment is just and proper to be received in evidence and they may be marked as exhibits through PW2.

b) Respondent No.2/defendant No.2 filed counter and opposed the petition contending that the petitioner filed the present documents along with the petition for appointment of Advocate Commissioner to mark them as exhibits through another witness, who is not a party to the suit which is not permissible under law. He thus prayed to dismiss the petition.

c) The trial Court observed that the documents which are now sought to be marked by the petitioner through his daughter i.e. PW2, who is not a party to the suit, are all medical prescriptions which do not contain the signature of the concerned doctor and stamp and they are filed only after closure of cross-examination of PW1 and hence cannot be permitted. Petition was dismissed accordingly.

Hence, the instant CRP.

4) Heard arguments of Sri K.Narasimhachari, learned counsel for petitioner and Sri Virupaksha Dattatreya Goud, learned counsel for 1st respondent. None appeared for 2nd respondent.

5) At the outset, the order impugned does not suffer from any perversity or irregularity, as learned Judge having observed the medical record pertaining to PW1 cannot be marked through PW2, who is not competent to speak about them and in case PW1 proposes to rely upon his medical record, he has to summon the concerned specialist who issued those reports, has rightly dismissed the petition. Hence, the said order need not be revised.

6) Accordingly, this CRP is dismissed. No costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 10.12.2018
Murthy