

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION Nos.3468, 3491 and 3499 of 2018

06.07.2018

Between:

M.A.Reddy (died)
and Majji Venkateswara Varaprasad Reddy and others

..Petitioners

and

Kampa Pydi Reddy and others

..Respondents

Counsel for the petitioners: Mr.Jithender Rao Veeramalla

Counsel for the respondents: --

The Court made the following:



COMMON ORDER:

These three Civil Revision Petitions arise out of cognate applications i.e., I.A.Nos.670 of 2015, 944 of 2014 and 669 of 2015 respectively in O.S.No.1241 of 2012 on the file of the learned Principal Senior Civil Judge, Visakhapatnam.

2. The petitioners filed the aforementioned suit for eviction of the respondents from the suit schedule property. Certain documents were sought to be filed in the suit on behalf of the respondents/defendants by the Liaison Manager of respondent No.8/defendant No.8. When I.A.No.944 of 2014 filed for that purpose was allowed by the Court below by its order, dated 09.10.2014, the same was challenged by the petitioners before this Court in C.R.P.No.1437 of 2015. By order, dated 17.07.2015, this Court disposed of the said C.R.P. by setting aside order, dated 09.10.2014, in I.A.No.944 of 2014 and remanding the matter to the Court below to decide as to whether a third party to the suit can file documents. After remand, the Court below has decided the issue in favour of the respondents and by order, dated 11.04.2018, it has allowed I.A.No.944 of 2014. Following the said order, on the same day, I.A.Nos.669 and 670 of 2015, which were filed by the petitioners in pursuance of the earlier order for eschewing the evidence of D.W.3 and for discarding Ex.B-11, were dismissed by the Court below.

3. In coming to its conclusion in favour of the respondents, the Court below has relied upon Rules 48, 54 and 59 of the Andhra Pradesh Civil Rules of Practice and held that a combined reading of the said Rules would indicate that a petition can be signed either by the party or by an Advocate and, however, an affidavit has to be only signed by the deponent. The Court below has further relied upon the judgment of this Court in **G.Krimana Murthy vs. Hemalatha Chit Funds Pvt., Ltd.**,¹ wherein it was held as under.

“From the above, it is clear that all the interlocutory applications need not necessarily be signed by the party himself or herself and an affidavit can be signed either by the party himself or by an Advocate or anybody, including the clerk of an Advocate, who is conversant with the statement of facts, which are necessary to be furnished for maintaining an interlocutory application.”

The Court below has also referred to the judgment in **Kartick Chandra Sera vs. Smt.Sulata Sera**² and Order XVI Rules 6 and 7 C.P.C., according to which, the Court has the power to summon a person to produce documents and to give evidence with regard to the said documents, and held that such being the position, I.A.No.944 of 2014 was a case, where a person, without being summoned, was sought to be permitted to produce the documents and that therefore, when such a person can be examined as a

¹ 2006(3) ALT 416

² 2010(1) CLJ 828

witness, there is nothing wrong in allowing him to file the documents.

4. Irrespective of the reasoning of the Court below, I am of the opinion that these C.R.Ps. are liable to be dismissed on two grounds *viz.*, one, that in the affidavit filed in support of I.A.No.944 of 2014, the deponent – K.Krishna @ K. Rama Krishna stated that he was working as the Liaison Manager of respondent No.8/defendant No.8 group of companies and in the counter-affidavit, the petitioners/plaintiffs have not disputed the status of the deponent as the Liaison Manager though an objection was taken that the group of companies of respondent No.8/defendant No.8 is not the party to the suit. On these facts, I am of the opinion that I.A.No.944 of 2014 was not filed by K.Krishna - the deponent of the affidavit, on his own, but, on the contrary, the said I.A. having been filed in the name of the respondents/defendants, the affidavit filed in support thereof was signed by said K.Krishna. Therefore, I do not find any legal impediment to the Liaison Manager of respondent No.8/defendant No.8 to sign the affidavit filed in the name of the respondents/defendants. Another reason to dismiss these C.R.Ps. is that the petitioners have not pleaded prejudice that may be caused to them by allowing the documents to be filed under the affidavit of the Liaison Manager of respondent No.8/defendant No.8. Ordinarily, when the Court below exercises its discretion, this

Court, sitting in the revisional jurisdiction, would not interfere with such discretion unless either the order is contrary to the specific provisions of any statute or that the same results in miscarriage of justice. As neither of the two situations exists in the present cases, I am not inclined to interfere with the orders of the Court below.

5. These Civil Revision Petitions are, accordingly, dismissed.

6. As a sequel to dismissal of these C.R.Ps., I.A.No.1 of 2018 in C.R.P.No.3491 of 2018 filed by the petitioners for interim relief stands dismissed as infructuous.

06th July, 2018

GHN

C.V.NAGARJUNA REDDY, J

