

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.6014 OF 2016

ORDER:

This Civil Revision Petition under Article 227 of the Constitution of India is filed challenging the order dated 17.11.2016 in I.A.No.1277 of 2016 in GOP.No.210 of 2011 passed by the IV Additional District Judge, Kakinada., whereby the petition filed under Order XVI Rule 1 and Section 151 C.P.C. to summon Rachakonda Subrahmanyam, Advocate, Kakinada and K.Satyanarayana, Advocate, to appear before the Court and give evidence on behalf of the petitioner as to the issue of notice is disputed by RW.1.

The petitioner filed petition alleging that during cross examination of RW.1, she denied issue of notice through counsel Rachakonda Subrahmanyam, Advocate stating as follows:

"I do not know that my 1st husband having Sri Ram Life Insurance Policy during his life time. I do not know the reason for filing of consumer case before Consumer Forum, but the case is filed. I did not sent the letter along with the policies. The signature shown to me is of mine in the letter as my father-in-law asked me to sign on the letter, except putting my signature I do not know the contents of the letter, I do not know about the legal notice sent through Sri Rachakonda Venkateswarlu, Advocate, but the signature and endorsement on the notice is of mine that the signature put by me as my father-in-law asked me to sign on it.

In view of the deposition there is a doubt cast on the issue of notice itself by RW.1 through counsel. Therefore, for clarification he filed petition to summon the advocate for better appreciation of facts.

The petition was opposed by the respondent raising several contentions that it is not just to summon the advocates, who issued notice to express their inability to say whether the notice was issued by them or not and requested to dismiss the petition.

Upon hearing argument of both counsel, the Court below dismissed the petition on the ground that during cross examination, RW.1 admitted about issue of notice while contending that at the instance of her father-in-law she issued letter and got issued notice. Therefore, no further proof is necessary.

Aggrieved by the impugned order, this revision petition is filed on various grounds mainly contending that in view of the stand taken by RW.1 in her cross-examination that signature and endorsement on Ex.A.54-legal notice, Ex.A.55-letter and Ex.A.56-complaint filed before the Consumer Court, Ex.A.57-affidavit, Ex.A.58-proof affidavit are denied. Therefore, sought to summon Rachakonda Subrahmanyam, Advocate, Kakinada and K.Satyanarayana, Advocate.

During hearing, learned counsel for the petitioner would contend that the impugned order is erroneous and the evidence of Rachakonda Subrahmanyam, Advocate, Kakinada and K.Satyanarayana, Advocate is crucial to disprove the case of the respondent when she took a specific plea that those documents were issued at the instance of the father-in-law of the petitioner, without her instructions and requested to set aside the impugned order. Learned counsel also drawn the attention of this Court to the last para of the cross examination of RW.1, dated 30.06.2015.

Whereas, learned counsel for the respondent opposed the revision petition while supporting the impugned order.

It is an undisputed fact that Ex.A.54 and Ex.A.55 contains the signature and endorsement of RW.1 and that the petitioner denied the instructions given by her to the counsel. When the petitioner admitted the signature on the notice and other documents, no further proof is required to substantiate the contention of any parties and it is suffice that RW.1 issued Ex.A.54 and A.55 containing her signature, for eliciting truth about

the instructions to the counsel, the counsel is not required to be examined before the Court. Even otherwise, a suggestion was put to RW.1 that a notice was sent through Rachakonda Venkateshwarlu, Advocate. In the absence any suggestion put to RW.1 about issuance of notice, letter etc, more particularly RW.1 admitted about her signatures on Ex.A.54 to 56, their examination is not necessary to decide the real controversy before the Court. It is difficult if every advocate is summoned to the Court as witness when notice was issued on the instruction of the party to issue notice on mere denial during evidence, every advocate has to stand before the Court with pale face.

In view of the facts and circumstances of the case, I find that it is not a fit case to set aside the impugned order as it is free from legal infirmities and warranting no interference of this Court.

In the result, the civil revision petition is dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending shall stand closed.

M. SATYANARAYANA MURTHY, J

13.11.2018
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