

THE HON'BLE SRI JUSTICE S.V.BHATT

C.R.P. No.5740 of 2017

ORDER:

Heard Mr.N.Janardhan Reddy, counsel for petitioner and Mr.V.Srikantha Rao, counsel for respondent No.4.

The application of revision petitioner to summon the 1st respondent as witness is rejected by the trial court. Hence, the Civil Revision Petition.

Learned counsel appearing for the parties focussed on averments in the affidavit filed in I.A.No.948 of 2017 and the reasoning of trial court in support of their respective claims.

Mr.N.Janardhan Reddy relies on the decision reported in ***National Insurance Company Limited, Calcutta and others v. M/s.Susru Sea Foods rep. by its Managing Partner***¹ of paragraph 19 and contends that summoning the defendant as witness is not a bar under order XVI and if the reasons for summoning 1st defendant are disclosed the element of surprise is lost.

Mr.Srikantha Rao vehemently opposes the contention of Mr.Janardhan Reddy contending that 4th respondent claims property from 1st respondent through registered sale

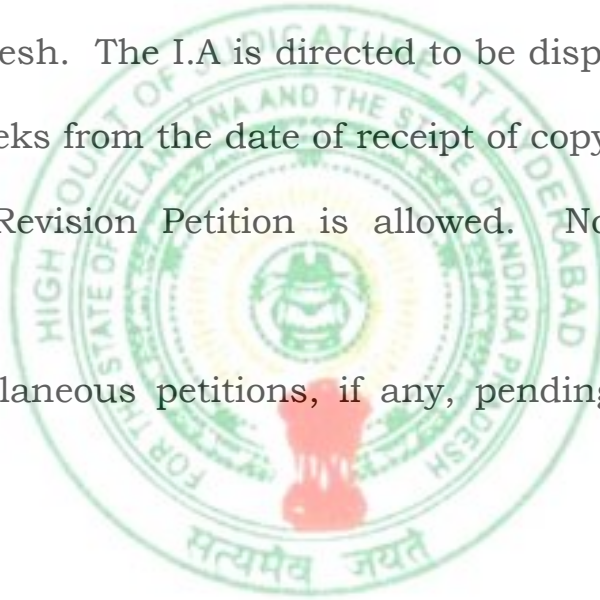
¹ 2005 (1) ALT 297

deed and examination of 1st respondent is impermissible in law.

I have perused the order impugned in Civil Revision Petition and also the ratio in National Insurance Company Limited, Calcutta and having regard to the issues for decision by the Court, the consideration or rejection of prayer, particularly for the reasons stated in the impugned order are unsustainable. The order under Revision is set aside and I.A.No.948 of 2017 is remitted to trial Court for disposal afresh. The I.A is directed to be disposed of within two (02) weeks from the date of receipt of copy of this order.

Civil Revision Petition is allowed. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.



S. V. BHATT, J

Dt: 07.02.2018

Note:

CC forthwith

(B/o) dv

