

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY
CIVIL REVISION PETITION No.6773 of 2017

ORDER:

This civil revision petition is filed under Article 227 of Constitution of India challenging the order dated 31.10.2017 passed in I.A.No.536 of 2017 in O.S.No.330 of 2003 by the I Additional Senior Civil Judge, Guntur, whereby, the petition filed under Order XVI Rules 1 and 2 of Code of Civil Procedure (for short "C.P.C.") was dismissed.

The petitioner herein filed I.A.No.536 of 2017 for summoning the Deputy General Manager, Bharat Sanchar Nigam Limited, Chandramouli Nagar, Guntur to produce telephone bills from 01.04.2000 to 31.03.2001 relating to the telephone bearing No.0863-2242970 to prove that he is in possession of the disputed property. But the trial Court dismissed the petition on various grounds.

Aggrieved by the said order, the present revision is filed reiterating the same grounds.

During hearing, Sri K.Jaya Kumar, learned counsel for the petitioner reiterated the contentions urged before the trial Court.

The documents sought to be produced are telephone bills relating to the telephone bearing No.0863-2242970 for a period of one year commencing from 01.04.2000 to 31.03.2001. The Deputy General Manager sought to be summoned is a public officer. In

such case, the procedure contemplated under Rule 129 of Civil Rules of Practice has to be followed.

As per sub-rule (3) of Rule 129 of Civil Rules of Practice, no court shall issue such summons unless it considers the production of the original is necessary or is satisfied that the application for a certified copy has been duly made and has not been granted. The Court shall in every case record its reasons in writing and shall require the applicant to deposit in Court, before the summons is issued, to abide by the order of the Court, such sum as it may consider necessary to meet the estimated cost of making a copy of the document when produced. If for any reason, certified copies were not issued, the Court may issue certificate to the effect that the documents are necessary. But the petitioner has not followed the procedure contemplated under Rule 129 of Civil Rules of Practice and straightaway approached the Court seeking relief under Order XVI Rules 1 and 2 of C.P.C. Therefore, dismissal of the application by the trial Court cannot be faulted since the petitioner did not follow the procedure contemplated under Rule 129 of Civil Rules of Practice. However, the petitioner is at liberty to obtain certificate from the Court to obtain certified copies in the event the Deputy General Manager refused to issue certified copies of documents.

Moreover, the petitioner sought to summon the bills pertaining to the telephone bearing No.0863-2242970 for a period of one year commencing from 01.04.2000 to 31.03.2001, but the bills would be available only with the petitioner and not with the Deputy General Manager, at best, demands may be available with

the Deputy General Manager. Hence, on this ground, the petition cannot be allowed. Consequently, the revision is liable to be dismissed.

In the result, the civil revision petition is dismissed granting liberty to the petitioner to follow the procedure prescribed under Rule 129 of Civil Rules of Practice. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

25.10.2018
Ksp

JUSTICE M. SATYANARAYANA MURTHY

