

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.6778 OF 2017

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the order dated 31.10.2017 passed in I.A.No.896 of 2017 in F.C.O.P.No.129 of 2015 on the file of the Family Court at Khammam.

2. Heard the learned counsel for both parties.

3. The facts leading to filing of the present revision are briefly as follows:

The petitioner filed I.A.No.896 of 2017, under Order XVI Rule 3 C.P.C., to summon the witness by name J.Venkateswarlu. The respondent filed counter *inter alia* contending that the said person is not competent to depose evidence before the Court. The trial Court, after affording a reasonable opportunity to both parties, dismissed the petition. Hence, the revision.

4. The point that arises for consideration in this revision is:

“Whether there is any illegality, irregularity or impropriety in the impugned order?”

5. A perusal of the record reveals that the petitioner filed F.C.O.P.No.129 of 2015, under Section 13(1)(ia) of Hindu Marriage Act, on the file of the Family Court at Khammam against the respondent for dissolution of marriage between them. During pendency of trial, the petitioner filed I.A.No.896 of 2017 to summon the witness by name J.Venkateswarlu, who issued a certificate acknowledging the downloading of e-mails. The trial

Court dismissed the petition on the ground that I.A.No.897 of 2017 was dismissed.

6. The petitioner filed C.R.P.No.6714 of 2017 challenging the order passed in I.A.No.897 of 2017 in F.C.O.P.No.129 of 2015. Today this Court allowed the said revision petition by allowing I.A.No.897 of 2017. This Court also allowed another C.R.P.No.6724 of 2017 filed by the petitioner to reopen the matter. In view of allowing of C.R.P.Nos.6714 and 6724 of 2017, this Court is of the considered view that it is a fit case to allow the revision.

7. In the result, the Civil Revision Petition is allowed setting aside the order dated 31.10.2017 passed in I.A.No.896 of 2017 in F.C.O.P.No.129 of 2015. Consequently, I.A.No.896 of 2017 in F.C.O.P.No.129 of 2015 on the file of the Family Court at Khammam is allowed to issue summons to the witness by name J.Venkateswarlu. There shall be no order as to costs.

8. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 26.09.2018

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