

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.5119 of 2018

ORDER:

This Revision is filed under Article 227 of the Constitution of India challenging the order dt.28.04.2018 in I.A.No.392 of 2017 in LAOP.No.33 of 2014 of the Senior Civil Judge, Manthani.

2. Petitioner claimed to be claimant No.7 in the said O.P and filed a Cheque Petition for issuance of a cheque for a sum of Rs.8,38,840/-.

3. According to the petitioner, he is entitled to the said amount as per the Award in the said O.P. dt.08.03.2016.

4. The Court below vide impugned order dismissed the said cheque petition on the ground that there is a discrepancy in the age of the petitioner and it entertained a doubt as to whether the petitioner was the real claimant or someone else.

5. Assailing the same, this Revision is filed.

6. Counsel for the petitioner contended that if the Court entertained a doubt about the identity of the real claimant, the Court should have conducted a proper enquiry by giving

opportunity to the petitioner to prove that he is the real claimant and not someone else, and when there was no objection from the respondent's side about the identity of the petitioner, the Court could not have dismissed the cheque petition.

7. The Government Pleader for Arbitration does not dispute the fact that opportunity should have been given to the petitioner to prove that he was in fact the real claimant, and that the impugned order, without giving such opportunity, cannot be sustained.

8. Therefore, the order dt.28.04.2018 in I.A.No.392 of 2017 in LAOP.No.33 of 2014 of the Senior Civil Judge, Manthani, is set aside; the said I.A., is remanded back to the said Court to conduct an enquiry by giving opportunity to both sides, and to determine, whether the petitioner in the said I.A., is the real claimant or somebody else; and depending on the result of the said enquiry to pass a fresh order in accordance with law. This exercise shall be completed by 30.06.2019.

9. With the above directions, this Civil Revision Petition is disposed of. No order as to costs.

10. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

16th April, 2019.

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