

**IN THE HIGH COURT OF KARNATAKA AT BANGALORE**

**DATED THIS THE 7<sup>TH</sup> DAY OF JULY 2014**

**BEFORE**

**THE HON'BLE MR. JUSTICE A S BOPANNA**

**WRIT PETITION NO.29994/2014 (LA-RES)**

**BETWEEN:**

RANGEGOWDA  
S/O KURI THIMMEGOWDA  
AGED ABOUT 68 YEARS,  
R/O GULASINDA VILLAGE,  
KASABA HOBLI,  
CHANNARAYAPATANA TALUK  
HASSAN DISTRICT.

**... PETITIONER**

(BY SRI NANJESHA GOWDA D T, ADV.)

**AND:**

1. THE SPECIAL LAND ACQUISITION OFFICER  
H.R.P.II, HASSAN DISTRICT  
HASSAN.
2. SRI.G.DEEPAK  
ADVOCATE  
AGED ABOUT 42 YEARS  
ADVOCATE ASSOCIATION  
HASSAN

**... RESPONDENTS**

(BY SRI H VENKATESH DODDERI, AGA. FOR R1  
SRI NARASIMHA MURTHY G V, ADV. FOR C/R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 &  
227 OF THE CONSTITUTION OF INDIA, WITH A PRAYER TO  
QUASH THE ORDER ATED 28.4.2014 ON I.A.UNDER ORDER 3

RULE 4[2] R/W SEC. 151 OF CPC FILED BY THE PETITIONER IN LAC NO.55/2007 PASSED BY THE LEARNED SENIOR CIVIL JUDGE & JMFC, CHANNARAYAPATNA VIDE ANN-J AND TO PASS APPROPRIATE ORDER THEREON IN ACCORDANCE WITH LAW AND DIRECT THE SENIOR CIVIL JUDGE & JMFC, CHANNARAYAPATNA TO ALLOW THE I.A. UNDER ORDER 3 RULE 4[2] R/W SEC. 151 OF CPC FILED BY THE PETITIONER IN LAC NO.55/2007

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING :

### **ORDER**

Learned Government Advocate to accept notice for respondent No.1. He is permitted to file memo of appearance in four weeks. The second respondent has entered caveat. In that view, I have heard the learned counsel for the parties.

2. The petitioner is before this Court assailing the order dated 28.04.2014 passed on the application filed under Order 3 Rule 4(2) R/w Section 151 of CPC in L.A.C. No.55/2007.

3. The petitioner herein is the claimant in L.A.C.No.55/2007. The second respondent had represented him as his Advocate on execution of

*Vakalathnama* by the petitioner. The proceedings has come to an end by passing the award and enhancing the compensation. At this stage, certain dispute has arisen between the petitioner and the second respondent. The petitioner in that view had sought for issue of "No Objection" to enable him to engage another Advocate. The request made by the petitioner has been turned down by the second respondent. The petitioner therefore got filed the application under Order 3 Rule 4(2) R/w Section 151 of CPC through another Advocate seeking that the second respondent be directed to issue "No objection" or in the alternative, to allow the application and permit the counsel who had been entrusted therein to appear on behalf of the petitioner. The Court below after considering the rival contentions has rejected the application and directed the petitioner to settle the fees and thereafter obtain "No Objection". It is against the said order, the petitioner is before this Court.

4. Learned counsel for the second respondent seeks to sustain the order passed by the Court below. The contention put forth is that the second respondent has represented the petitioner diligently in the proceedings and in fact after the compensation amount was deposited, the payment voucher had also been filed immediately thereafter and there is no delay whatsoever. It is contended that despite the same, unwarranted allegations have been made against the second respondent that he had caused delay with regard to withdrawal of the amount.

5. Learned counsel for the petitioner would however contend that insofar as the fees being demanded by the second respondent, he is prepared to pay a lumpsum amount of Rs.20,000/- in addition to the amount that has already been paid. Insofar as the professional charges agreed between the parties, this Court need not advert on that aspect of the matter. If in fact the second respondent has any grievance against the petitioner with regard to the recovery of his

professional charges or with regard to unwarranted allegations made against him, certainly the second respondent would be entitled to take appropriate action against the petitioner in that regard. The second respondent in any event cannot hold on to the brief when the petitioner has issued a notice terminating his *Vakalathnama* and has sought for issue of “No objection”. A detailed consideration of these aspects has been made by a Division Bench of this Court in the case of Sri ***C.V. Sudhindra and Others -vs- M/s Divine Light School for Blind and Others*** reported in ***ILR 2008 KAR 3983*** where in the view as indicated by me above has been taken.

6. In that view of the matter, the order dated 28.04.2014 would not be sustainable. The same is accordingly set aside. The Court below is directed to permit the learned counsel who has been engaged by the petitioner to represent him in place of the second respondent and proceed further in the matter. Liberty is however reserved to the second respondent to initiate

such proceedings against the petitioner, if he deems the same to be necessary.

In terms of the above, the petition stands disposed of.

**SD/-  
JUDGE**

hrp/bms