

HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION Nos.1276 and 1201 of 2015

COMMON ORDER :

Since the issue involved in both these civil revision petitions is inter-related and the parties are also one and the same, they are heard together and being disposed of by this common order.

2. These Civil Revision Petitions, under Article 227 of the Constitution of India, are filed by the petitioner/defendant aggrieved by the orders and decrees dated 08.09.2014 in I.A.No.169 of 2014 in I.A.No.597 of 2013 in O.S.No.117 of 2011; and dated 9.3.2015 in I.A.No.126 of 2015 in O.S.No.117 of 2011, dismissing the applications filed under Order XVI, Rule 6 of C.P.C., seeking to issue summons to the Branch Manager, Indian Bank, Peda Tummidu, to cause production of demand promissory note, agreement of loan bearing A/c.No.808386112, containing the signatures of the petitioner/defendant dated 18.12.2008, and to issue summons to the Branch Manager, Indian Bank, Pedatummidu Village, Bantumilli to cause production of Mortgage Bond dated 18.12.2008 registered as document No.1708/2008 or Loan application or Account opening form of the petitioner/T. Venkateswara Rao relating to S.B.A/c.No.80838612 for the purpose of sending such document to an expert for comparison.

3. The respondent/plaintiff has filed the aforesaid suit for recovery of money based on a pronote. Disputing his signature on the said pronote, earlier, I.A.No.597 of 2013 filed by the petitioner/defendant under Section 45 of the Indian Evidence Act, 1872 to send Ex.A.1 pronote to an Expert for comparison and opinion was allowed by order dated 12.8.2014, directing the petitioner/defendant to deposit Expert Fee and also to produce admitted signatures of the contemporaneous period i.e., of the year 2008, and the said order

became final. Again the petitioner/defendant has filed the present application in I.A.No.169 of 2014 in I.A.No.597 of 2013 in O.S.No.117 of 2011 for the aforesaid relief. The Court below dismissed the said application through the impugned order dated 8.9.2014 on the ground that there is no material to show as to the existence of loan obtained by the petitioner/defendant from the bank and if so, he must have been in possession of the title deeds, pattadar pass books and sale deeds, which could be filed before the Court. Aggrieved by the same, the petitioner/defendant has filed C.R.P.No.1276 of 2015.

4. After dismissal of I.A.No.169 of 2014 by order dated 8.9.2014, the petitioner/defendant has once again filed I.A.No.126 of 2015 in O.S.No.117 of 2011 for the aforesaid relief. The Court below dismissed the said application by order dated 9.3.2015, observing that when I.A.No.597 of 2013 was allowed on 12.8.2014 with a direction to produce contemporary signatures, without making genuine efforts to produce the documents, the petitioner/defendant has been filing petitions one after another only to protract the litigation. Aggrieved by the same, the petitioner/defendant has filed C.R.P.No.1201 of 2015.

5. In these civil revision petitions, it is contended by Sri P. Satyanarayana, learned counsel for the petitioner/defendant, that the Court below has dismissed I.A.No.169 of 2014 erroneously on the ground that the bank is not made a party. It is further contended that when admitted signatures are available with the bank, the Court below ought to have allowed the application filed by the petitioner by summoning the Branch Manager, Indian Bank, Peda Tummidu to produce the pronote, agreement of loan bearing A/c.No.808386112 containing his signatures.

6. Heard learned counsel for the petitioner and perused the impugned orders.

7. It is to be seen that earlier, I.A.No.597 of 2013 filed by the petitioner/defendant was allowed on 12.8.2014, directing him to deposit Expert Fee and also to produce admitted signatures of the

contemporaneous period i.e., of the year 2008, and the said order became final. Further, even according to the case of the petitioner/defendant, he has already repaid the amount pertaining to Agreement of Loan dated 18.12.2008 bearing A/c.80838612, which is in the custody of Branch Manager, Indian Bank, Peda Tummididi Village. If really he has repaid the loan amount, he can as well take back the original documents from the Bank itself and produce the same before the Court as per the directions of the Court below in I.A.No.597 of 2013, dated 12.8.2014. Instead of doing so, as rightly observed by the Court below, the petitioner/defendant has been filing petitions one after another only to protract the litigation.

8. In view reasons assigned by the Court below, I do not find any merit in both the civil revision petitions, warranting interference by this Court under Article 227 of the Constitution of India.

9. Accordingly, both the civil revision petitions are dismissed, at the admission stage. However, it is open to the petitioner/defendant to take back the original documents from the Bank itself and produce the same before the Court as per the directions of the Court below in I.A.No.597 of 2013, dated 12.8.2014. As a sequel, miscellaneous petitions pending, if any, in these revisions shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

02.04.2015.

NOTE: Issue C.C. in one week.

(B/O)

Msr

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