

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.3910 of 2015

ORDER:

Heard the learned counsel for petitioner and the learned counsel for respondent.

2. The petitioner herein is defendant in O.S.No.53 of 2014 on the file of the Court of the VII Additional District Judge, Gudur (for short, trial Court). The respondent herein filed the said suit for specific performance of agreement of sale dated 19.08.2013. After filing the written statement, when the petitioner herein filed I.A.No.403 of 2014 for amending the written statement, the trial Court dismissed the same, by order dated 21.07.2015. Challenging the said order, the present Civil Revision Petition is filed.

3. The petitioner herein as defendant filed the written statement with the following specific averments.

“6. The defendant submits that to her surprise, she received a notice on 14-03-2014 seeking specific performance of agreement of sale. On receipt of the notice, the defendant approached the plaintiff and reason for issuance such false notice. The plaintiff demanded for a sum of Rs.30,000/- towards the interest due towards pronote debt. The defendant refused to pay the said sum, the plaintiff filed this unjust suit taking advantage of the custody of signature papers of the defendant. Thus the agreement of sale is a fabricated document and not legally enforceable at law. All the signatures of the defendant is on the bottom end of the sheets. The plaintiff might be used the blank sheets with the signatures of the defendant.”

4. Thereafter the petitioner sought amendment of the same by adding following paras after para 6 of the original written statement.

“6(a). The defendant further submits that on 19-08-2013 she did not borrow and receive any amount or even single pie from the plaintiff. By playing fraud and exerting force, the plaintiff obtained the signatures of defendant on the blank papers with a view to adapt

them as specimen signatures to forge the same on the alleged agreement of sale. Thus the plaintiff forged the signatures of the defendant on the suit agreement of sale. Hence, the signatures contained on the alleged suit agreement of sale dated 19-08-2013 are forged and the same is got up document. The said alleged suit agreement of sale is not executed by the defendant. The plaintiff created and manufactures the alleged suit agreement of sale with ulterior motive and dishonest intention to have wrongful gain. The plaintiff filed false, frivolous, vexacious suit against the defendant and he is not entitled to specific performance besides granting the relief of specific performance in pursuance of the forged agreement of sale dated 19-08-2013 shall be liable to be rejected under Section 20 of Specific Relief Act.

6(b). The defendant further submits that the plaintiff fully knew well that the defendant has no exclusive and absolute right over the suit schedule property and the husband of the defendant purchased the suit schedule house site benami in the name of the defendant and later the husband of defendant exclusively, with his own efforts and with his own earnings, spent the entire money for constructing the house i.e., the suit schedule mentioned house property benami in the name of the defendant. Hence the defendant has no absolute right, title and interest over the suit schedule property. In addition to it, the suit schedule mentioned property belonging to Hindu Undivided Family and minors having interest in it. As such the defendant never intended to sell the suit schedule mentioned property in favour of plaintiff. In the circumstances stated above, enforcement of manipulated and forged contract liable to cause hardship to defendant but, non-enforcement of manipulated and forged contract not liable to cause hardship to plaintiff. Hence based on the aforesaid valid and cogent grounds the suit is liable to be dismissed.”

5. It is clear from the record that the evidence on behalf of the plaintiff was closed and the present petition was filed after examination of D.W.1. The trial Court dismissed the said application with the following observations, after considering the cases in **Gobinda Sahoo v. Ram Chandra Nanda, Smt.Satya Sahuani v. Chudamani Sahu, L.Narayan Reddy v. P.Narayan Reddy, Raj Kumar v. Dipender Kaur Sethi, G.S.Prakash v. Polasa Hanumanulu, Siginam Uma v. Siginam Rajeswaramma, Golla Thirupathaiah v. Karnam Ramasubbaiah and Rafeeq Ahmed v. Hameed Ahmed Khan.**

“12. It shows that in the present case, amendment is allowed, it will create new cause of action and also would change the nature of the suit. It further shows that the proposed amendment is a new and contradictory pleading with the original written statement pleadings and these decisions are very much applicable to the present case

and I am following the decisions cited by the respondent/plaintiff.”

6. In view of the well-considered order of the trial Court and in view of the nature of the amendment sought by the petitioner herein, this Court is not inclined to entertain the Civil Revision Petition and the same is accordingly dismissed at the admission stage. No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 26.11.2015

TJMR