IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH
TUESDAY, THE THIRD DAY OF MARCH
TWO THOUSAND AND FIFTEEN
PRESENT

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

CIVIL REVISION PETITION No.6438 of 2012

BETWEEN

Voosa Surya Prakasa Rao.

... PETITIONER

AND

The ICICI Bank Limited and others.
.

...RESPONDENTS

Counsel for the Petitioner: MR. NIMMAGADDA SATYANARAYANA

Counsel for the Respondents: MR. P. RAMACHANDRAN

The Court made the following:

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ORDER:

Heard.

2. Petitioner herein is the plaintiff in O.S.No.82 of 2008 on the file of the V Additional District Judge, Ongole. The said suit is contested by defendants 1

and 2, who have filed written statement and defendant No.5 has filed a separate written statement whereas defendants 3 and 6 filed a memo adopting the written statement of defendant No.5. Defendants 1, 2 and 4 are different branches of ICICI bank whereas defendants 3, 5 and 6 are its officers holding different positions.

In the said suit, the plaintiff has closed his evidence and the defendants examined D.W.1 and thereafter, the evidence on behalf of the defendants was also closed and the suit was posted for arguments. At that stage, the petitioner/plaintiff filed the present application, I.A.No.845 of 2012, seeking to summon defendants 3, 5 and 6 as Court witnesses to enable him to cross-examine. That application was opposed by defendants and dismissed by the Court below under the impugned order dated 28.11.2012 and the present revision is preferred against the said order.

3. Though the learned counsel for the petitioner places strong reliance upon Order 16 Rule 14 of the Code of Civil Procedure in support of the application for summons, I do not see any justification to permit the prayer of the petitioner, as is noted above that defendants 1 and 2 have filed one written statement and defendants

3 and 6 have filed a memo adopting the written statement of defendant No.5. Hence, it is for the said respective defendants to depose before the Court in support of their written statement and

if they do not appear, it is open for the Court to draw an appropriate inference. However, it would be entirely different to summon them as Court witnesses, as evidently, the Court does not need their evidence for the purpose of adjudicating the suit. Further, the plaintiff cannot compel the defendants to enter into the box to enable the plaintiff to cross-examine, as the choice to enter into the box and depose is entirely left to the defendant concerned. The order passed by the Court below, therefore, is clearly sustainable and warrants no interference.

The civil revision petition is dismissed. As a sequel,

the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

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VILAS V. AFZULPURKAR, J

March 3, 2015
DSK