

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

CRP Nos.3924 AND 3929 OF 2014

COMMON ORDER:

Since common point arises for consideration and since the same petitioner is party in both the cases, these Revisions are being disposed of by this common order.

2. The petitioner in both these Revisions is the defendant in O.S.No.37 of 2014 and O.S.No.6 of 2014 on the file of Principal Senior Civil Judge, Kakinada. The respondents in both these Revisions have filed the said suits against the petitioner for recovery of money.

3. The petitioner filed written statements opposing the suit claims.

4. The petitioner had filed I.A.No.1316 of 2014 in O.S.No.37 of 2014 and I.A.No.1315 of 2014 in O.s.No.6 of 2014 under Order XVI Rules 1 and 5 to 7 CPC to issue summons to direct the Mandal Educational Officer, Rajahmundry to produce Teachers Attendance Register for the month of August, 2011 of M.P.P. School, Uppara Colony, Dowleswaram through his authorized officer and to give evidence.

5. In the affidavit filed in support of these applications, the

petitioner contended that since he was discharging his official duties as a Teacher in M.P.P. School, Uppara Colony, Dowleswaram on the date of execution of the promissory notes on the basis of which both the suits are filed, he could not have been present at the time of execution of the promissory notes and therefore, it is necessary to direct the Mandal Educational Officer, Rajahmundry Rural Mandal, East Godavari District to cause production of the Teachers' Attendance Register for the month of August, 2011 either by himself or through his authorized officer and to give evidence.

6. Counter affidavits were filed by the respective respondents opposing these applications. They contended that since the suit promissory notes were not executed during the working hours of the school, there was no necessity to summon the Teachers' Attendance Register of the said school. It is further contended that as the petitioner is the Head Master of the same School, the attendance register would be in his custody

7. By separate orders dt.17.10.2014, the Court below dismissed both the applications.

8. It pointed out that in the written statements filed by the petitioner he had only taken a plea that the Court had no jurisdiction to entertain the suits and the suit promissory notes were forged, but he did not take any plea that he was on duty

when the alleged promissory note transactions took place. It further held that in the cross-examination of PW1, the petitioner himself has elicited that the suit promissory notes were executed out of the officers hours and not in the school working hours i.e., the promissory note in O.S.No.37 of 2014 was executed between 8 and 9 a.m., and the other one in O.S.No.6 of 2014 was executed after 5 p.m. It therefore came to the conclusion that there was no necessity to allow the said applications since the suit promissory notes, as elicited by the petitioner himself, were not executed in the school working hours.

9. Challenging the same, these two Revisions are filed.

10. Counsel for the petitioner contended that the Court below should have allowed these applications since the plea of *alibi* is set up by the petitioner and it is the case of the petitioner that he was on duty in the school and could not have executed the alleged promissory notes in favour of the respective respondents.

11. Counsel for the respondents supported the orders passed by the Court below and contended that when it is the stand of the respective respondents that the suit promissory notes were executed not during the school working hours, the fact that the petitioner was working in the School on the date when the promissory notes were executed, is not relevant.

12. I have noted the submissions of both sides.

13. The Court below has referred to the evidence of PW1 in both the suits, wherein, the petitioner himself had elicited during the cross-examination of the respective plaintiffs as PW1 that one suit promissory note was executed between 8.00 and 9.00 a.m. and the other promissory note was executed after 5.00 p.m.

14. In this view of the matter, summoning the teachers' attendance register of the School where the petitioner is employed as Head Master through the Mandal Educational Officer, will not in any way aid the petitioner or the Court in deciding the suits. I therefore do not find any merit in these Revisions.

15. Accordingly, both the Civil Revision Petitions are dismissed. There shall be no order as to costs.

16. Consequently, Miscellaneous Petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

26th August, 2014.
gra