

HON'BLE SRI JUSTICE R.SUBHASH REDDY

CIVIL REVISION PETITION No.2351 of 2014

ORDER :

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioners/defendants aggrieved by the docket order dated 02.07.2014 in I.A.No.325 of 2014 in O.S.No.22 of 2011 passed by the I Additional District Judge, Machilipatnam, Krishna District, dismissing the application filed by them under Order 16 Rule 6 and Section 151 of C.P.C., seeking to issue summons to the Branch Manager, Syndicate Bank, Buckinghampet Branch, Vijayawada, to produce the Loan Account No.33417210000331 relating to the respondent/plaintiff and his second wife and to give evidence in order to arrive at a just decision.

2. The respondent/plaintiff filed the aforesaid suit for recovery of money alleged to have been obtained by late Sai Krishna, who is the husband of petitioner No.1/defendant No.1, and father of petitioner Nos.2 and 3/defendant Nos.2 and 3, during his life time by executing two promissory notes dated 1.3.2009 and 9.4.2009, for a sum of Rs.15,00,000/- each. After the death of Sai Krishna on 6.5.2011, the aforesaid suit is filed against the petitioners, who are his legal heirs. The petitioners/defendants filed written statement disputing receipt of such huge amount by executing pronotes by

late Sai Krishna. They filed the present application in I.A.No.325 of 2014 in O.S.No.22 of 2011, under Order 16 Rule 6 and Section 151 of C.P.C., seeking to issue summons to the Branch Manager, Syndicate Bank, Buckinghampet Branch, Vijayawada, to produce the Loan Account No.33417210000331 relating to the respondent/plaintiff and his second wife and to give evidence. The Court below dismissed the said application through the impugned docket order dated 2.7.2014. Hence, the present civil revision petition.

3. It is submitted by the learned counsel for petitioners/defendants that when the respondent/plaintiff himself borrowed an amount of Rs.6,00,000/- from Syndicate Bank on 9.5.2007, which was discharged on 13.6.2014, the allegation that he lent such a huge amount of Rs.30,00,000/- to late Sai Krishna is not correct and, in order to prove the same, the petitioners/defendants have filed the present application to summon the Branch Manager of Syndicate Bank, Buckinghampet Branch, Vijayawada, but the Court below has erroneously dismissed the same.

4. On the other hand, it is submitted by the learned counsel for respondent/plaintiff that there is no pleading in the written statement disputing the capacity of the respondent/plaintiff to lend such a huge amount and the present application is filed only to protract the litigation.

5. Having heard learned counsel for the parties, I

have perused the written statement filed by the petitioners/defendants.

6. It is to be seen that the suit is of the year 2011. In the written statement, though the petitioners/defendants have disputed the signatures of late Sai Krishna on the suit pronotes and securing of such a huge amount by him, there is no pleading with regard to the capacity of the respondent/plaintiff to lend such a huge amount. Therefore, I am of the view that the Court below has rightly rejected the application filed by the petitioners/defendants in the year 2014 to summon the Branch Manager of Syndicate Bank, Buckinghampet Branch, Vijayawada.

7. For the aforesaid reasons, I do not find any merit in this revision warranting interference by this Court, under Article 227 of the Constitution of India. However, it is made clear that this Court is not expressing any opinion on the capacity of the respondent/plaintiff to lend such a huge amount and it is for the Court below to independently assess the evidence on record and arrive at a just conclusion.

8. With the above observations, this civil revision petition is dismissed. Interim order granted by this Court on 25.7.2014 is vacated and the miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH

REDDY

06.03.2015.

Msr

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