

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

CIVIL REVISION PETITION NO.4684 OF 2015

ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the II Additional District Judge, Visakhapatnam in I.A. No.1101 of 2015 in O.S. No.167 of 2011 dated 15.09.2015.

The petitioner herein is the plaintiff in O.S. No.167 of 2011, and the petitioner in I.A. No.1101 of 2015. I.A. No.1101 of 2015 was filed, under Order XVI Rule 6 CPC, to summon the defendant to cause production of the entire file relating to the construction and payment for the Hostel for Foreign students in Andhra University, North Campus, Visakhapatnam, including the letter addressed by Mr. Prasad, AEE through Deputy E.E. on 05.06.2008 and the office note dated 02.07.2008 signed by AEE to the Executive Engineer (Civil), Andhra University.

In the order under revision, the Court below observed that the plaintiff had filed the suit narrating all details of the work executed by him relating to the defendant University; he had also furnished details of the interest payable, on the monthly progress of the work, in the plaint; he had furnished all details relating to various works executed by him; he did not make any reference, to the documents sought to be produced by filing the present petition, either in the plaint or in his evidence; he had furnished all details of the contract works executed by him; he also examined P.W-2 to prove his contention; he had adduced documentary evidence to prove his contention; he did not mention any reason, much less a valid reason, as to how the documents, sought to be produced by the defendant, were essential to establish his contention for they were not at all referred either in the plaint, or in the evidence; and there was substance in the contention, of the respondent-defendant, that no material purpose would be served by summoning those documents.

Sri A.S.C. Bose, Learned Counsel for the petitioner, would submit

that the Court below ought not to have taken a hyper-technical view, and should have summoned the document and caused production of the entire file as the endeavour of the Court should be to render justice; the documents, which the petitioner sought production of, would establish the plea in para (e) of the plaint that the University Engineer had assured them that new SSR rates would be paid for the balance portion of the work, and all additional works/deviations are carried out on verbal instructions only. On the other hand Sri K. Jyothi Prasad, Learned Counsel for the respondent, would contend that the order of the Court below does not necessitate interference as the documents, which the petitioner sought to summon, are neither public documents nor is it based on any plea in the plaint.

The petitioner seeks to have the entire file, relating to construction and payment, being summoned, including the letter addressed by the Assistant Engineer to the Executive Engineer, and the office note signed by the Assistant Executive Engineer. These two documents are in the nature of internal correspondence, and are not public documents. The plea, in para (e) of the plaint as referred to above, is only that the work was executed on the verbal instructions of the Executive Engineer, and he had assured that they would be paid new SSR rates for the balance work. The aforesaid two letters are not letters of the Executive Engineer, but by some other officials. These documents, sought to be summoned, are not referable to the pleadings in para (e) of the plaint.

The Court below has rightly held that, in the absence of a specific plea in the plaint, the petitioner-plaintiff could not seek to have the entire documents summoned merely because the defendant chose not to adduce evidence examining any witnesses in their defence. The jurisdiction which this Court exercises, under Article 227 of the Constitution of India, is supervisory and not appellate; and save patent illegality, in the order under revision, no interference is called for. The order under revision does not suffer from any such infirmity. The revision fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand

dismissed. No costs.

RAMESH RANGANATHAN, J

Date: 31.12.2015.
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