

HON'BLE SRI JUSTICE R.SUBHASH REDDY

CIVIL REVISION PETITION Nos.4962, 4970 & 5030 of 2015

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COMMON ORDER:

These three revision petitions, filed under Article 227 of the Constitution of India, arise out of I.As. filed in a common suit being O.S.No.750 of 2009 on the file of the XIII Additional Chief Judge (FTC), City Civil Court at Hyderabad. Hence, they are heard and being disposed of together.

The respondent herein has filed the aforesaid suit in the year 2009 for recovery of money and PW.1 was examined. On behalf of the petitioner/defendant, PW.1 was cross-examined on 26.04.2011. After closure of evidence on both sides, arguments on the plaintiff's side were over. When the matter was coming up for arguments on defendant's side, the present three I.As were filed for reopening the case, for recalling PW.1 for further cross-examination and for sending Exs.A1 to A4 to a Handwriting Expert for ascertaining the genuineness of signatures on the said documents. By separate orders dated 13.10.2015, the Court below dismissed all the three I.As. Hence, these revisions.

Heard the learned counsel and perused the impugned orders and other material available on record.

When the petitioner/defendant denied execution of the promissory notes, the same were sent to a Handwriting Expert and the opinion of the Expert was also received. The present I.As are filed mainly on the ground that the respondent/plaintiff, who is examined as PW.1, had no capacity to lend amounts and, therefore, it is

necessary to recall PW.1 for the purpose of further cross-examination on the aspect of his capacity in lending the amounts.

From a perusal of the cross-examination of PW.1 on behalf of the petitioner/defendant which was recorded on 26.04.2011, it is clear that he has stated that he had paid an amount of Rs.35,00,000/- to the defendant out of the amount secured by him by selling 4 acres of land situated at Patancheruvu. Whether PW.1/plaintiff was having capacity to lend the amount is the matter to be considered by the trial Court basing on the evidence already recorded, but there is no reason to entertain these petitions at this stage when the matter is ripen for arguments. However, with regard to the capacity of PW.1 in lending the amount, PW.1 was already cross-examined on that aspect. Further, for the last four years, the petitioner/defendant has not taken any steps either to recall PW.1 for further cross-examination or to send the disputed documents to Handwriting Expert, but when the matter has come up for arguments on defendant's side, these I.As are filed.

In support of the case of the petitioner/defendant, learned counsel has placed reliance on the judgment of the Hon'ble Supreme Court in **K.K.Velusamy vs. N.Palaanisamy**. In the said judgment, the Hon'ble Supreme Court has considered the scope of Order 18 Rule 17 of C.P.C and found that having regard to the facts in that case, the discretion conferred under Order 18 Rule 17 of CPC to recall the witness was not properly exercised.

Having regard to the facts in the present case, this Court is of the view that valid reasons have been recorded by the trial Court and the judgment relied upon by learned counsel for the petitioner would not render any assistance to the case of the petitioner/defendant.

For the aforesaid reasons, I am of the view that these applications are filed only to protract the litigation and the impugned

orders do not call for interference of this Court under Article 227 of the Constitution of India and the revisions are devoid of merits.

These Civil Revision Petitions are accordingly dismissed. However, it is made clear that it is open to the trial Court to dispose of the suit on its own merits uninfluenced by any of the observations made in these revisions.

As a sequel, pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

27.11.2015

v v