

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

CIVIL REVISION PETITION NO.4986 OF 2015

DATED:04-12-2015

Between:

Nepalli Kotaiah ... Petitioner

And

Smt. Punna Malliswari ... Respondent

COUNSEL FOR THE PETITIONER: Mr. Pandamaneni Srinivasa
Rao

COUNSEL FOR THE RESPONDENTS: -

THE COURT MADE THE FOLLOWING:

ORDER:

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This civil revision petition arises out of order dt.16.3.2015 in I.A. No.439 of 2015 in O.S. No.172 of 2013, on the file of the Senior Civil Judge, Mangalagiri.

I have heard the learned counsel for the petitioner and perused the record.

The respondent filed the above mentioned suit for recovery of money based on a pronote. After closing of the evidence, the petitioner, who is the sole defendant, filed the above mentioned I.A. under Order XVIII Rule 17 of the Code of Civil Procedure, 1908, for recalling P.Ws.1 and 2 for the purpose of further cross-examination. This application has been dismissed by the lower Court.

From the perusal of the order of the lower Court and the pleadings of the petition, it is evident that the only ground on which the petitioner – defendant seeks to further cross-examine P.Ws.1 and 2 is that he came to know on enquiry that the respondent - plaintiff did not have financial capacity to lend the amount, that he had financial dealings with one Veeraganti Kotaiah, who runs chit business, that he is one of the members of the chit subscribing Rs.1,00,000/-, that he being the highest bidder the bid was knocked in his favour and that in connection with the said transaction, said Veeraganti Kotaiah took a promissory note as security from the petitioner - defendant. The petitioner further pleaded that though he has paid the entire amount to said Veeraganti Kotaiah, he did not return the promissory note and taking advantage of the illiteracy and innocence of the petitioner – defendant, said Veeraganti Kotaiah and the plaintiff colluded together and might have fabricated the said promissory note.

The main ground on which the lower Court has dismissed the

application is that none of the averments made in his I.A. were made in the written statement and that in the absence of any foundation laid in the pleadings, any amount of cross-examination would not help the petitioner.

In my opinion, the petitioner cannot be permitted to summon the witnesses for further cross-examination for mere asking. Unless strong and weighty reasons are assigned by a party, the witnesses cannot be subjected to cross-examination again and again. In the absence of proper pleading, the petitioner cannot introduce a new case for the first time in the cross-examination and even if he is permitted to put such questions to the witnesses, the same will not serve any purpose.

For the above mentioned reasons, I do not find any illegality or jurisdictional error in the order of the lower Court in dismissing the I.A. Hence, the civil revision petition is dismissed.

As a sequel to dismissal of the civil revision petition, C.R.P.M.P. No.6568 of 2015 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

04-12-2015

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