

THE HON'BLE MR JUSTICE R. KANTHA RAO

Civil Revision Petition No.3732 of 2015

ORDER:

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This civil revision petition is filed under Article 227 of the Constitution of India against the judgment and decree dated 14.07.2015 passed in I.A.No.359 of 2015 in O.S.No. 221 of 2013 on the file of the Senior Civil Judge's Court, Pithapuram.

Heard the learned counsel appearing for the revision petitioner and the learned counsel appearing for the respondent.

The petitioner is the defendant in the suit. The respondent/plaintiff filed the suit basing on a preliminary note for recovery of an amount of Rs.5 lakhs. The petitioner-defendant filed written statement contending inter alia that there are disputes between the families of the defendant and the plaintiff, the plaintiff developed grouse against the defendant and filed the suit basing on a fabricated promissory note. The petitioner filed an application under Order VI Rule 17 of CPC before the learned trial Court to amend the written statement incorporating the plea that the plaintiff borrowed an amount of Rs.2,10,000/- from the respondent on 18.04.2008 and one Ammu Srirama Chandra Murthy scribed the pro-note, on receiving the same, the plaintiff took two empty pronotes and white paper after obtaining the signatures of the petitioner on those white papers and he might have fabricated the suit promissory note on one of those documents obtained by him.

The petition was opposed by the respondent contending that there is another suit based on promissory note filed by the respondent against the petitioner and in the said suit also the defendant filed the similar document and the same was dismissed. He further contended that pleading of new and inconsistent facts cannot be allowed by way of amendment. Accepting the contention of the respondent and also taking the view that the proposed amendment altogether introduces new and inconsistent facts, the trial Court dismissed the amendment petition.

Obviously the petitioner took a specific plea in the written statement that on account of family disputes between him and the respondent, the respondent developed grouse against him and filed a suit basing on a fabricated promissory note. The plea which the defendant seeks by way of an amendment has already been taken by him in the written statement. Therefore, the learned trial Court rightly come to the conclusion that the proposed amendment is allowed, it amounts to allowing of introducing new facts.

For the above reasons, I am of the view that the trial Court did not commit any error in dismissing the amendment petition requiring interference in the present revision. The revision petition is therefore dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, filed in this revision shall stand closed.

Date:09.10.2015.
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R. KANTHA RAO,

HON’BLE MR JUSTICE R. KANTHA RAO

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