

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

C.R.P.No.1756 of 2016

ORDER

This Civil Revision Petition is directed against the order and decree dated 8.2.2016 passed in I.A.No.1766 of 2015 in O.S.No.64 of 2013 by the Senior Civil Judge, Chirala, Prakasam District.

The petitioner is the defendant in O.S.No.64 of 2013 on the file of the Senior Civil Judge, Chirala, Prakasam District. The respondent-plaintiff filed suit seeking recovery of money. The trial Court framed the following issues on 21.7.2014.

- 1.Whether the plaintiff is entitled for recovery of amount as prayed for?**
- 2.Whether the plaintiff is entitled for decree as prayed for?**
- 3.To what relief?**

After framing the issues, the petitioner filed I.A.No.1766 of 2015 requesting the Court to frame the additional issues and when the said application was dismissed, the present Civil Revision Petition has been filed.

The respondent herein who is the plaintiff in the suit is none other than the father-in-law of the petitioner herein. The affidavit filed in support of the application states that he did not borrow the amount through bank transfer and he deposited the amount of

Rs.4,00,000/- in his father-in-law's account for the sake of convenience in transferring the said amount to the bank account of the petitioner. He further states that the trial Court has not properly framed the issues.

The plaintiff opposed the said application by filing a counter.

The trial Court dismissed the said application with the following observation:

“On considering the above facts and circumstances of the case, it goes that the main suit is filed for recovery of amount. It is the version on the petitioner side that to frame additional issue regarding interest claimed i.e., whether the plaintiff is entitled for interest claiming on suit debt from defendant, whereas no where the defendant contended regarding interest claimed on suit debt in his written statement. So, when there is no denial regarding interest, the question of framing issue or additional issue does not arise. It is the version on the petitioner side to frame additional issue as “Whether the plaintiff is entitled to file a suit without having any document in respect of the suit debt?” is not at all necessary to be framed as additional issue as already an issue was framed that “Whether the plaintiff is entitled for recovery of amount as prayed for”. The said issue will be decided on documentary evidence in the suit, for which no additional issue as prayed required to be framed. It is the version on the petitioner side to frame additional issue regarding “Whether the plaintiff is having capacity to transfer the alleged suit amount on 19.8.2010 to defendant's account?”, the said issue also covered in the issue already framed and Whether the suit is maintainable on the ground of account transfer, the said additional issue also need not required to be framed as there is no denial in the written statement. So it all supports the version on the

respondent side that this petition is filed in order to drag on the matter. Hence, the petition is liable to be dismissed.”

This Court is in agreement with the view taken by the trial Court. The order of the trial Court does not suffer from any error in exercise of its jurisdiction. However, the dismissal of the present revision does not disentitle the petitioner-defendant from proving his case in accordance with law.

Accordingly, the Civil Revision Petition is dismissed at the admission stage.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

24th June, 2016
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