

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.4886 OF 2009

ORDER:

This Civil Revision Petition is filed under Article 227 of Constitution of India challenging the order dated 08.09.2009 passed in I.A.No.2000 of 2009 in O.S.No.185 of 1999 on the file of the Court of the Principal Senior Civil Judge, Ranga Reddy District.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3. The learned counsel for the petitioner submitted that the trial Court allowed the petition without considering the material available on record.

4. The learned counsel for the respondent submitted that as per the remand order, both parties are entitled to adduce fresh evidence. Therefore, the trial Court is justified in allowing the petition.

5. A perusal of the record reveals that the petitioner herein filed O.S.No.185 of 1999 on the file of the Court of the Principal Senior Civil Judge, Ranga Reddy District at L.B.Nagar, Hyderabad, against the respondent for recovery of an amount of Rs.2,58,000/- and the trial Court decreed the suit. Feeling aggrieved by the judgment and decree of the trial Court dated 11.08.2004, the respondent herein filed A.S.No.186 of 2004 on the file of the Court of the Principal District Judge, Ranga Reddy District at L.B.Nagar, Hyderabad. The first appellate Court after affording a reasonable

opportunity to both parties, remanded the matter to the trial Court with a direction to frame the following issue”

“Whether the plaintiff is a money lender as defined in the provisions of the Andhra Pradesh Telangana Area Money Lenders Act, 1349-F, and, if so, whether she has complied with the mandatory provisions of the said Act and, if not, whether the suit is liable to be dismissed for non compliance of the relevant provisions of the said Act?”

The first appellate Court also made an observation that both parties are at liberty to adduce evidence to the extent of the additional issue framed by it.

6. While things stood thus, the respondent herein filed I.A.No.2000 of 2009 in O.S.No.185 of 1999 to recall PW.2 for the purpose of cross-examination to establish whether he was cited as list of witness in C.C.No.1617 of 2000 or not?. The trial Court allowed the said petition. For better appreciation of the contention of the learned counsel for the respondent, it is apposite to refer the order passed by the trial Court.

“In the circumstances stated in the petition and counter and in the interest of justice, petition is allowed on payment of costs of Rs.200/-.”

7. A perusal of the order clearly indicates that the trial Court allowed the petition without considering the material available on record. It is a settled principle of law that the Court has to pass speaking order in a petition to recall witness. The trial Court has not assigned reasons much less cogent and valid reasons for allowing of the petition.

8. The first appellate Court remanded the matter to consider whether the plaintiff is a money lender under the provisions of Andhra Pradesh Telangana Area Money Lenders Act, 1349-F or not? In order to prove that issue, there is no necessity to recall PW.2. A perusal of the affidavit clearly reveals that the respondent filed the petition to recall PW.2 to ascertain whether he was shown as one of the list of witnesses in C.C.No.1617 of 2000 or not? The testimony of PW.2 is no way helpful to establish whether the plaintiff is a money lender or not? The order passed by the trial Court is contrary to the order passed by the first appellate Court.

9. Having regard to the facts and circumstances of the case, I am of the considered view that it is a fit case to allow the revision.

10. Accordingly, the Civil Revision Petition is allowed setting aside the order dated 08.09.2009 passed in I.A.No.2000 of 2009 in O.S.No.185 of 1999 on the file of the Court of the Principal Senior Civil Judge, Ranga Reddy District. No costs.

11. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 18.11.2016
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