

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO**C.R.P.No.4343 of 2016****ORDER:**

Heard the learned counsel for the petitioner.

2. This Civil Revision Petition is filed challenging the order dt.13-07-2016 in I.A.No.569 of 2015 in O.S.No.13 of 2015 of the Junior Civil Judge, Nidadavolu.

3. The respondent filed the above suit against the petitioner for recovery of money on the basis of the promissory note. In the Written Statement filed by the petitioner, a plea was taken that the matter was settled before elders and the petitioner has paid Rs.10,000/- to one Amjuri Venkateswara Rao and the respondent-plaintiff accepted that the said payment discharged the petitioner and this was reduced into writing in the form of a letter on 26-06-2014. He further pleaded that the suit promissory note is fabricated one and that he did not borrow any amount from the respondent. Alternatively he also contended that it was not supported by any consideration. Along with a Written Statement, a photo copy of the said letter dt.26-06-2014 was filed but the original of the said letter was not filed.

4. After the evidence of respondent/plaintiff was completed, the petitioner filed I.A.No.569 of 2015 under Order VIII Rule 1 A (3) CPC to receive the original of the said letter and also original of an

Attendance Certificate dt.11-06-2015 issued by Health Officer, Municipal Corporation, Rajahmundry.

5. In the affidavit filed in support of this application, it is merely stated that along with the Written Statement, photo copy of the letter dt.26-06-2014 was filed and the original of the said letter was traced in the petitioner's house and that the petitioner was on duty on 10-10-2014 at Rajahmundry and did not come to any place much less to Pandalaparru.

6. This application was opposed by the respondent. Respondent contended that the petitioner willfully failed to file the documents now sought to be filed along with I.A.No.569 of 2015 and that they were fabricated with the help of his associates.

7. By order dt.13-07-2015, the Court below dismissed the said application. It held that once the petitioner took a plea that the suit promissory note is forged, the documents sought to be filed by the petitioner is irrelevant.

8. Challenging the same, this Civil Revision Petition is filed.

9. Learned counsel for the petitioner contended that the order passed by the Court below is erroneous and that the documents in question are very important documents to prove the defence of the petitioner in the suit, that they had been misplaced and have been

recently traced and therefore opportunity should be given to the petitioner to file them in the Court.

10. Order VIII Rule 1 A (3) CPC no doubt permits the defendant, who did not file all the documents along with the Written Statement, to seek the leave of the Court by giving a valid reason for not filing them along with the Written Statement and file them at a later stage of the suit.

11. In the present case, the photo copy of the document dt.26-06-2014 has been filed by the petitioner along with the Written Statement. Therefore, the original of the said document must have been in the petitioner's custody. It is not stated in the affidavit filed in support of I.A.No.569 of 2015 by the petitioner that original of the document dt.26-06-2014 has been misplaced. He merely stated that it was recently traced. As regards the other document dt.11-06-2015 is concerned, there is not even a pleading except stating that it was an Attendance Register subsequently issued by his employer. No valid reason is given for not filing the original of the document dt.26-06-2014 and the Attendance Certificate along with the Written Statement.

12. In these circumstances, I am of the opinion that the Court below did not commit any error of jurisdiction in refusing to entertain I.A.No.569 of 2015 and grant relief to the petitioner.

13. Therefore, the Civil Revision Petition is dismissed. No costs.

14. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 23-12-2016

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