

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

CIVIL REVISION PETITION No. 342 of 2016

ORDER:

This revision arises out of an order passed by the executing Court dismissing an application filed by the petitioner/2nd judgment debtor for summoning and examining the Manager of a Bank, which happens to be the Bank on which a cheque was drawn by the 2nd judgment debtor in favour of the 1st respondent/decreed holder.

2. Heard Mr. Nimmagadda Satyanarayana, learned counsel for the petitioner/2nd judgment debtor, and Mr. P. Durga Prasad, learned counsel for the 1st respondent/decreed holder.

3. Towards full and final settlement of the claim of the decreed holder upon all the debtors, the 2nd judgment debtor appears to have issued three cheques, two of which were honoured and the third cheque got dishonoured.

4. Therefore, the decreed holder proceeded with the execution. The 2nd judgment debtor filed an

application in E.A.No.178 of 2012 contending that the entire claim has been settled. Both sides adduced evidence in the said execution application and it appears that it is at the final stage of disposal.

5. At that stage, the 2nd judgment debtor took out an application in I.A.No.168 of 2015 under Order XVI Rule 1 of C.P.C. for summoning the Bank Manager for the purpose of speaking about the transactions mentioned in the statement of account for the period from 2005 to 2014, which was marked as Ex.A.10 in the execution application. This application was dismissed by the executing Court on the ground that there is no necessity to summon the Bank Manager. Aggrieved by the same, the 2nd judgment debtor is before me.

6. The executing Court is right in holding that there is no necessity for the Bank Manager to speak about the transactions mentioned in Ex.A.10. Ex.A.10 is a statement of account which is already marked through the witness of the 2nd judgment debtor. It is a statement furnished in the course of banking transactions. Therefore, unless the decree holder challenges the very admissibility of Ex.A.10, it

is not necessary to summon the Bank Manager to prove its contents.

7. Moreover, the only purpose for which Ex.A.10 is marked is to show the availability of funds on the date on which the third cheque was dishonoured. For this purpose, Ex.A.10 itself is sufficient and there is no necessity to examine the Bank Manager. Therefore, the Civil Revision Petition is dismissed.

Consequently, miscellaneous petitions if any pending in the revision shall stand dismissed. There shall be no order as to costs.

V. RAMASUBRAMANIAN, J

3rd June, 2016

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