

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No. 4031 of 2011

ORDER:

This Civil Revision Petition is filed against the order dated 10.06.2011 passed by the Senior Civil Judge, Gajuwaka, Visakhapatnam, in I.A.No.121 of 2011 in O.S.No.90 of 2006.

The respondent/plaintiff filed O.S.No.726 of 1999 against the petitioners/defendants for recovery of amount based on a promissory note, in the Court of the Principal Senior Civil Judge, Visakhapatnam. On account of transfer of the said suit to the Court of the Senior Civil Judge, Gajuwaka, it was renumbered as O.S.No.90 of 2006. The respondent/plaintiff filed the above Interlocutory Application under Order VI Rule 17 C.P.C seeking amendment of the plaint as to the date of promissory note. It was the contention of the petitioners/defendants that both in the plaint as well as in the affidavit filed in lieu of chief examination, the plaintiff had mentioned the date of promissory note as 12.01.1998, whereas the promissory note, which was produced before the Court below, is dated 10.01.1998. Ignoring the objection raised by the petitioners, the Court below, by order dated 10.06.2011, allowed the Interlocutory Application. Aggrieved by the same, the petitioners filed the present Civil Revision Petition.

Learned counsel for the petitioners contends that the Court below ought not to have allowed the amendment of the plaint, that too, after commencement of the trial and therefore, sought to set aside the impugned order.

On the other hand, learned counsel for the respondent submits that due to typographical error, the date of the promissory note in the plaint was typed as 12.01.1998 and at the time of filing

of the plaint itself, correction was made as 10.01.1998 with regard to the figures, but the words mentioned in the bracketed portion of the plaint were not corrected due to oversight. After noticing the same, the respondent filed the above Interlocutory Application seeking amendment of the plaint and that in view of allowing the amendment, no prejudice is caused to the petitioners.

I have considered the rival submissions. The power of the Court below to allow the amendment is not denied. As a matter of fact, the respondent had enclosed the promissory note along with the plaint, which clearly shows the date as 10.01.1998. The Court below had taken into consideration the said fact and allowed the Interlocutory Application. Though there is a total denial with respect to the execution of the suit promissory note, the said aspect is required to be decided in the suit.

In that view of the matter, and since no prejudice is caused to the petitioners at this stage in view of allowing the amendment of the plaint, particularly, correcting a typographical error, the order of the Court below does not suffer from any illegality.

The Civil Revision Petition is accordingly dismissed. However, the petitioners are at liberty to raise all the defences that are available to them in the suit.

Consequently, pending miscellaneous applications, if any, shall also stand dismissed. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Date: 28.01.2016

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