

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No.4485 of 2016

ORDER:

The petitioner is the defendant in O.S.No.179/2013 on file of the District Judge, Prakasam District at Ongole. The said suit was filed for recovery of amount of Rs.23,34,147/-. In the said suit, the petitioner herein filed I.A.No.1173/2016 seeking a direction to the plaintiff to produce the documents under which she had sold the land at Narasaraopeta. He filed the said application on the ground that the plaintiff as PW1 in the cross-examination stated that she lent the money to the petitioner from the sale consideration amount and that she got by selling Ac.6.00 cents of land in Narasaraopeta and they are all on record. In those circumstances, he wanted production of those documents.

A counter was filed in I.A.No.1173/2016 stating that the petitioner-defendant admitted the execution of three promissory notes and one hand letter under exhibits A1 to A4 and issued a cheque under Ex.A9 with his signature. The said documents were executed after receiving the consideration. It is further stated that the petitioner filed the petition with extraneous reasons and he has no right to demand submission of those documents relating to the petitioner.

The trial Court by order dated 04.07.2016 dismissed the application in I.A.No.1173/2016 by stating as follows:

“..... But there is no specific plea that the plaintiff has no financial capacity to lend the amount. But during the cross-examination, the petitioner/defendant had elicited from P.W.1 as to how she got the money to pay it to the petitioner/defendant, in which she had stated that she sold the land in Narasaraopeta in an extent of Ac.6-00 cents and paid the consideration amount to the petitioner/defendant. It is pertinent to note that the plaintiff had not filed any document in the Court. What is important to be noted here is that the respondent/plaintiff is under obligation to prove the execution of the documents to establish her claim to recover the amount. Even if the respondent/plaintiff had stated in her cross-examination that she has sold some land in Narasaraopeta and even if she has not filed the documents in the Court, it is the prerogative of the respondent/plaintiff to file the documents in the Court, if they are found to be necessary for proving the claim. It is not obligatory on the part of the plaintiff to file such documents in the Court. The Court will only consider the evidence available on record to see whether the respondent/plaintiff has established her claim or not, only basing on the documents filed by her. Therefore, it cannot be said that there is any obligation on the part of the respondent/plaintiff to file the documents in the Court. Further they are not the documents which are executed between the parties. Under such circumstances, this Court believes that no direction can be given to the respondent/plaintiff to file the documents in the Court. Accordingly, the point is answered.”

I am in agreement with the said order passed by the trial Court and accordingly, this Civil Revision Petition is dismissed at the admission stage. No order as to costs.

Miscellaneous Petitions pending, if any, shall stand closed.

A.RAMALINGESWARA RAO, J

17.09.2016
MVA

