

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

CIVIL REVISION PETITION No.5735 OF 2015

DATED : 27.01.2016

Between :

P.Raghunatha Reddy S/o.P.Gangi Reddy,
Aged about 57 yrs, Occu : Business,
R/o.D.No.12-2-83, Ashok Nagar,
Anantapur, Anantapur District.

.. Petitioner

And

V. Ayyapu Reddy S/o.V.Sadasiva Reddy,
Aged about 58 yrs, Occu : Business,
R/o.D.No.12-3-150, Sai Nagar,
Anantapur, Anantapur District.

.. Respondent

This court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

CIVIL REVISION PETITION No.5735 of 2015

ORDER :

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

2. The petitioner herein is the defendant and the respondent herein is the plaintiff. Plaintiff filed a suit in O.S.No.247 of 2012 praying to grant decree against the defendant for the suit amount with costs and future interest. Petitioner herein filed his written statement. In the written statement he has taken a plea that even though the entire amount mentioned in the pronote was paid which was noted by the plaintiff in his small pocket note book maintained by him whenever the amount was paid and when the defendant demanded return of the pronote, the same was not returned. Thus, the specific plea taken by the defendant in the suit was though entire amount was paid, pronote is not returned and that no amount is due from him. The written statement is silent as to when those amounts are paid. When the suit reached the stage of cross examination of Pw.1, petitioner filed I.A.No.441 of 2015 under Order 6 Rule 17 of C.P.C., to permit him to amend the written statement.

3. The petitioner now seeks to contend that the amount was paid long back, a wrong endorsement is made on the back side of the pronote and that he did not make any such endorsement of payment of amount on 15.06.2009 and the same is forged. This plea was available to the petitioner when he filed the written statement in the suit. He kept quiet till the trial commenced and he has raised this plea for the first time at the stage of cross-examination of PW.1. The statement made by the petitioner in his written statement is clear and categorical and there is no ambiguity.

4. Having regard to the fact that the petitioner is trying to raise new plea at the stage when the case is posted for cross-examination of P.W.1, the trial Court rejected the plea raised by the petitioner and dismissed the said I.A.

5. In support of his contention that the trial Court erred in rejecting the petition holding that petitioner is trying to raise new plea or seeking to alter the defence affecting the plaintiff in the suit, the learned counsel for the

petitioner placed reliance on the decision of Supreme Court in **Revajeetu Builders and Developers Vs Narayanaswamy and Sons and others**^[1]. On consideration of the principles laid down in the earlier decisions, Supreme Court delineated the points for consideration whenever application is filed under Order 6 Rule 17 of C.P.C. Para No.64 of the judgment read as under :

“The decision on an application made under Order 6 Rule 17 is a very serious judicial exercise and the said exercise should never be undertaken in a casual manner. We can conclude our discussion by observing that while deciding applications, for amendments the courts must not refuse bona fide, legitimate, honest and necessary amendments and should never permit mala fide, worthless and/or dishonest amendments.”

6. There is no dispute about the principle of law. However, it is the discretion vested in the trial Court to grant the prayer in an application filed under Order 6 Rule 17 CPC depending on the facts in a given case. While exercising the discretion the trial Court shall keep in mind the parameters laid down by the Hon'ble Supreme Court in the above decision. In the instant case also the matter was considered in detail and trial Court opined that the claim of the petitioner is belated and it will have an impact on the defence of the plaintiff and that the petitioner herein is seeking to introduce new things, dismissed the I.A.

7. In **Ragu Thilak D.John Vs S. Rayappan**^[2], the Supreme Court considered earlier decisions, wherein it was held that technicalities of law should not be permitted to hamper the Courts in the administration of justice between the parties. Having regard to the facts of that case, relief sought was granted.

8. As seen from the order under Revision and the facts of this case, I am of the considered opinion that the trial Court has come to the correct conclusion and there is no error much less patent error warranting interference of this Court in exercise of Revisional jurisdiction.

9. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Civil Revision petition shall stand dismissed.

P.NAVEEN RAO,J

27th January, 2016
Rds

[\[1\]](#) (2009) 10 Supreme Court Cases 84

[\[2\]](#) (2002) 2 Supreme Court Cases 472