

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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CIVIL REVISION PETITION No.5755 of 2015

ORDER:

This civil revision petition under Article 227 of the Constitution arises out of the order dated 07.12.2015 passed by the learned Senior Civil Judge, Narsapuram, in I.A.No.1879 of 2015 in O.S.No.11 of 2006.

The petitioner is the defendant in the said suit. He filed the subject I.A. under Order VI Rule 17 C.P.C. to permit him to amend his written statement by introducing a plea as to material alteration of the suit pronote. By the order under revision, the trial Court dismissed the I.A.

Perusal of the order under revision reflects that the petitioner/defendant had earlier raised an issue as to the age of the ink and the age of the signature in the promissory note and pursued that litigation upto the Supreme Court, but emerged unsuccessful. He thereafter filed I.A.No.1193 of 2014 in the suit asking for the suit promissory note to be sent to the Hand Writing Expert to ascertain whether there were any material alterations in the amount mentioned in the promissory note. This I.A. was also dismissed and aggrieved thereby he filed C.R.P.No.2024 of 2015 before this Court. The said C.R.P. was also dismissed taking note of the fact that the petitioner/defendant had not even raised the issue of the alleged material alteration in his written statement and straight away sought examination of the document for that purpose. This Court specifically mentioned that without a foundational pleading, the petitioner/defendant could not be permitted to initiate a roving enquiry.

Taking a cue from the afore-stated observation made by this Court, it appears that the petitioner/defendant filed the subject I.A. seeking amendment of his written statement so as to introduce this pleading. As the suit was at the final stage and the plea of the petitioner/defendant for amendment of his pleading was highly belated, the trial Court dismissed the subject I.A.

The afore-stated facts clearly demonstrate that the petitioner/defendant did not raise this issue in the first instance, be it in his written statement or at the stage when he sought assessment of the age of the ink and the age of the signature in the said pronote. When the petitioner was diligent enough to pursue that matter right upto the Supreme Court, it is not believable that he would not have raised the issue of the so-called material alteration of the suit pronote at the first instance,

if he was serious about it. It appears that the subject application was an afterthought and has only been filed owing to the observations made by this Court in the earlier revision. This Court therefore finds no ground to interfere with the cogent order passed by the trial Court dismissing the I.A.

The Civil Revision Petition is devoid of merit and is accordingly dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

Date:09.02.2016

GJ