

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.554 of 2015

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, by the defendant, is directed against the docket order dated 01.09.2014 of the learned Additional Junior Civil Judge, Sathupally, Khammam District passed in I.A.no.99 of 2013 in O.S.No.141 of 2005, whereby, the said learned Judge recorded that the said I.A.No.99 of 2013 in the aforementioned suit stands dismissed for non-compliance of the condition imposed in the orders dated 23.07.2014 passed in the aforementioned interlocutory application.

2. I have heard the submissions of the learned counsel for the revision petitioner/defendant. I have perused the material record.

3. As per the facts borne out by the material record and the submissions now made, it is evident that the defendant filed I.A.No.99 of 2013 under Section 45 of the Indian Evidence Act, 1872 requesting the Court below to send exhibit A1-original promissory note, which is said to be containing the disputed signatures, and the other documents, viz., the written statement, vakalat, deposition and postal acknowledgement to the hand writing expert for comparison of the signatures of the defendant on the disputed promissory note with the signatures of the defendant on the other documents and for furnishing a report. That petition was resisted by the plaintiff. However, by orders dated 23.07.2014, the trial Court allowed the said application of the defendant and directed him to file admitted signatures of the year 2002 along with his writings which he has made in the normal course during that year by the next date of adjournment and had also observed in the said orders that failure to comply with the said direction, the petition shall stand dismissed. Admittedly, the defendant did not comply with the said condition imposed in the said order; however, on his counsel seeking further time for compliance, time was extended by the Court below till 27.08.2014. On that day also, the defendant did not produce the documents containing his writings and his

signatures, as directed in the conditional orders. Therefore, the trial Court passed the order which is impugned.

4. At the hearing, the learned counsel for the petitioner, while submitting that the defendant had now secured the relevant signatures of the contemporaneous period of the year 2002, requests that an opportunity may be given to the defendant to now produce necessary documents containing his signatures and writings before the Court below.

5. I have bestowed my attention to the facts and I have given earnest consideration to the submissions.

6. When the time fixed by the Court below for compliance of the condition had expired, the defendant ought to have filed an application before the Court below for extension of time and ought to have complied with the condition imposed within the extended time. However, the defendant did not do so and he had approached this Court after the conditional order has become operative and the petition stood dismissed. In the well-considered view of this Court, this Court cannot straightaway give any direction to the Court below to receive the documents, if any, filed by the defendant, as the petition already stands dismissed by now, for non-compliance of the condition that was imposed in the orders dated 23.07.2014.

7. Therefore, the Civil Revision Petition is dismissed, however, giving liberty to the defendant to approach the Court below to file an appropriate application, if he so desires and so chooses, for extension of time and permission to produce the necessary documents, as directed in the conditional orders dated 23.07.2014 passed in I.A.No.99 of 2013. It is needless to mention that if any such application comes to be filed by the defendant, the Court below shall give an opportunity to the plaintiff to file counter, if any, and dispose of the said application on merits and in strict accordance with the procedure established by law.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Civil Revision Petition

shall stand closed.

29th February, 2016
Bvv

M.Seetharama Murti, J