

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

CIVIL REVISION PETITION NO.1600 OF 2016

DATED:01-04-2016

Between:

Sri Raja Rajeswari Furniture,
Tenali

Rep. by its Proprietor,

Akaramsetty Venkateswara Rao

... Petitioner

And

State Bank of India

Rep. by its Branch Manager

Having its office at Bazaar Branch

Tenali Town, Guntur District

and another

... Respondents

COUNSEL FOR THE PETITIONER: Mr. Koneti Raja Reddy

COUNSEL FOR THE RESPONDENTS:

THE COURT MADE THE FOLLOWING:

ORDER:

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This civil revision petition arises out of order dt.18.11.2015, in I.A. No.534 of 2015 in O.S. No.9 of 2014, on the file of the XI Additional District and Sessions Judge, Tenali.

I have heard Mr. Koneti Raja Reddy, learned counsel for the petitioner, and perused the record.

The petitioner filed the above mentioned suit for a decree for recovery of Rs.25,57,992/- with subsequent interest from the date of filing the suit till the date of realization and for costs. It is the pleaded case of the petitioner that the goods mortgaged by it in favour of respondent No.1 in connection with a loan, were damaged in a fire accident and as respondent No.1 has not properly insured the goods with respondent No.2, the petitioner has suffered huge monetary loss. Respondent Nos.1 and 2 have filed separate written statements denying their respective liability.

Having regard to the respective pleadings, the lower Court has framed the following issues.

"1. Whether the stock in trade of the plaintiff is subject to the fire accident at the place notified and was duly insured with D2?

2. Whether the plaintiff is entitled for recovery of the suit amount with interest as prayed?

3. To what relief?"

When the trial was about to commence, the petitioner has filed I.A. No.534 of 2015 under Order XIV Rule 5 of the Code of Civil Procedure, 1908, for framing the following additional issues.

"1. Whether the 1st defendant processed the insurance proposal while debiting the insurance premium relating to the plaintiff concerned which was obtained from the plaintiff and submitted the same to the 2nd defendant?

2. Whether the 1st defendant is liable to pay the suit claim for acting negligently?"

This application was dismissed by the lower Court with the reasoning that the issues already framed are sufficient to answer the claim based on the pleadings and that therefore framing of the additional issues is redundant.

Having carefully heard the learned counsel for the petitioner, I am of the view that the lower Court has rightly held that issue No.1 is sufficient to decide the dispute between the parties as to whether respondent No.1 is liable to pay damages to the petitioner for the alleged loss of goods. The learned counsel for the petitioner submitted that since respondent No.1 is denying the responsibility to insure the goods, proposed additional issue No.1 is necessary. However, a perusal of the proposed additional issues shows that the same do not cover the aspect as to whether respondent No.1 is responsible to insure the goods of the petitioner. The proposed issues only refer to the aspects whether respondent No.1 processed the insurance proposal while debiting the insurance premium relating to the petitioner – plaintiff and whether respondent No.1 is liable to pay the suit claim for acting negligently. The second part of issue No.1 framed by the lower Court, namely, whether the stock in trade was duly insured with defendant No.2, will comprehend the aspect such as, whether respondent No.1 has duly processed the insurance proposals while debiting the insurance premium etc., if it has a responsibility to insure the goods. In this view of the matter, as rightly opined by the lower Court, there is no need for framing the additional issues. The petitioner is permitted to adduce all the necessary evidence pertaining to the responsibility of respondent No.1 to insure the goods and also the alleged negligence on its part leading to damage to the goods.

Subject to the above, the civil revision petition is dismissed.

As a sequel to dismissal of the civil revision petition, C.R.P.M.P. No.2031 of 2016 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

01-04-2016

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