

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.5682 of 2015

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ORDER:

This Civil Revision Petition is filed by the petitioner/defendant No.1 against the order dated 09.10.2015 in IA.No.730 of 2015 in OS.No.80 of 2014 on the file of the Additional Senior Civil Judge, Kurnool.

2. The case of petitioner before the Court below was that he is an employee of APCPDCL, Kurnool and that he obtained loan of Rs.2,16,000/- from the plaintiff-Rayalaseema Grameena Bank, on 22.03.2008. The loan was scheduled to be repaid in 108 monthly instalments at the rate of Rs.2,000/- per month by way of salary deduction. While so, on 21.12.2012, the then Manager of the plaintiff-bank addressed a letter to the Accounts Officer, Expenditure, of APCPDCL for re-fixing the instalments. The said letter was communicated to the petitioner and the petitioner objected to re-fixation of instalments and issued a legal notice on 17.01.2013 (marked as Ex.B2). The said legal notice was served on the Accounts Officer, APCPDCL and also on the Manager of the plaintiff-Bank through registered post (marked as Ex.B3). Hence, the petitioner, by way of I.A.No.730 of 2015 filed under Order 16, Rule 1(2) read with Section 151 of Civil Procedure Code, sought to summon the Branch Manager of the plaintiff-Bank for production of the said documents i.e., legal notice (Ex.B2) and the registered postal covers (Ex.B3) so as to establish his defence.

3. The 1st respondent/plaintiff filed counter denying the averments of the petitioner. It is the stand of the respondent-Bank

that as per the Loan Agreement, the petitioner is required to repay the loan 60 instalments at the rate of Rs.4,860/- per month and the loan has to be repaid before 05.04.2013. And, instead of paying Rs.4,860/- per month as instalment, the petitioner has been paying Rs.2,000/- per month.

4. After hearing both the sides, the Court below dismissed the application. Hence, this revision.

5. Learned counsel for the petitioner submits that the documents which were sought to be produced by summoning the Manager of the plaintiff-Bank, are necessary for substantiating the case of the petitioner, and as such the Court below ought to have allowed the application and summoned the Branch Manager for production of the documents, but the Court below has erroneously dismissed the application.

6. In this case, it is to be seen that the trial Court found that the witness who is sought to be summoned for production of the documents is not a third party to the suit, instead he is the Manager of the plaintiff-Bank. The trial Court also found that even according to the petitioner, the Manager of the plaintiff Bank addressed the letter dated 21.12.2012 to the Accounts Officer, APCPDCL, Kurnool. And when the Accounts Officer, APCPDCL was examined as DW2, he stated that the said letter is not available in the office records. It is also found that though the contents of the said letter dated 21.12.2012 were admitted by PW1, but PW1 clearly denied that the instalments were re-fixed at 108 instalments. The trial Court also observed that the documents viz., Legal Notice and the Postal acknowledgement that were sought to be produced were already marked as Ex.B2 and Ex.B3,

respectively. The trial Court also found that no purpose would be served by examining the present Branch manager unless proper evidence is produced to show that he was the Manager of the Plaintiff Bank who worked in the months of December, 2012 and January 2013. The trial Court while observing that the dispute with regard to the quantum and the number of instalments has to be decided on merits during the course of trial, has also observed that the petitioner has admitted his signatures on Ex.A1-Loan Agreement wherein he agreed to pay Rs.4,860/- per month in sixty instalments, and not Rs.2,000/- per month.

7. In view of the above, it is clear that the trial Court, considering the above aspects, has come to a conclusion that it is not necessary to summon the Manager of the plaintiff-Bank for the purpose of production of documents; and hence, I do not see any error in the order passed by the trial Court warranting interference under Article 227 of the Constitution of India.

8. The Civil Revision Petition is, accordingly, dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the CRP, shall stand closed.

A.RAJASHEKER REDDY, J

21.01.2016
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