

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

CIVIL REVISION PETITION No.3377 of 2016

ORDER:

Defendant in O.S.No.203 of 2012 on the file of the Court of Principal Junior Civil Judge, Kadiri is the petitioner in the present revision filed under Article 227 of the Constitution of India. This revision challenges the order, dated 03.06.2016, passed by the said Court in I.A.No.147 of 2016.

Heard Sri Allur Manjunath, learned counsel for the petitioner and perused the material available before the Court.

The respondent-plaintiff herein instituted O.S.No.203 of 2012 for recovery of amount on the foot of a promissory note. In the said suit, the petitioner-defendant filed I.A.No.147 of 2016 under Section 151 of the Code of Civil Procedure praying to reopen the matter so as to enable him to file a petition to cause production of certain documents, wherein, according to the petitioner, the signatures of the respondent-plaintiff are available. The said application was contested by the respondent-plaintiff by filing counter. The learned Principal Junior Civil Judge by way of an order, dated 03.06.2016, dismissed the said application. The said order is under challenge in the present revision.

It is submitted by the learned counsel for the petitioner that the order passed by the Court below is erroneous, contrary to law and

opposed to the provisions of the Code of Civil Procedure. It is further submitted that the Court below ought to have given opportunity to the petitioner and had the application been allowed, the same would be helpful for the Court below to adjudicate the issue in effective manner. It is also submitted by the learned counsel for the petitioner that the reasons assigned by the Court below for dismissing the application are neither valid nor convincing.

In the above background, now the question that falls for consideration is “whether the learned Principal Junior Civil Judge is justified in dismissing the application filed by the petitioner?”

There is absolutely no dispute with regard to the reality that after the closure of the evidence and when the matter was coming up for arguments, the present application is filed by the petitioner-defendant to reopen the matter. Earlier, the petitioner filed an application under Section 45 of the Indian Evidence Act praying to send Exs.B1 and B2 containing his signatures to handwriting expert and the same was allowed and when the documents were sent, the handwriting expert returned the said documents for want of contemporaneous signatures of the respondent-plaintiff. Thereafter, the petitioner did not pursue the said issue. It is also required to be noted that previously, the petitioner also filed I.A.No.358 of 2015 to cause production of certain documents by the Branch Manager, Andhra Pragathi Grameena Bank, Gandlapenta. The Branch

Manager, Andhra Pragathi Grameena Bank filed a memo on 27.01.2016 informing about non-availability of the signatures. Thereafter, the application was closed. It is also significant to note, as observed by the Court below, that when the matter was listed for arguments, the petitioner changed the counsel and filed the present application to reopen.

The Court below, after elaborately considering the above aspects, came to a conclusion that the very intention of the petitioner-defendant is to prolong the matter. It is settled and well established proposition of law that unless the order impugned suffers from patent perversity, the jurisdiction of this Court under Article 227 of the Constitution of India is not available. Therefore, this Court is not inclined to meddle with the well reasoned order passed by the Court below.

The civil revision petition is accordingly dismissed.

Consequently, Miscellaneous Petitions, if any pending in this revision shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Dt:04.11.2016.

kdl

