

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

C.R.P.Nos.3236 & 3237 of 2017

COMMON ORDER:

Aggrieved by the order of the trial Court allowing the two applications filed by the plaintiff, one for recalling PW.1 and another for filing additional documents, the defendant in a suit for specific performance has come up with the above revision petitions.

2. Heard Mr. C. Raghu, learned counsel for the petitioner.

3. In the affidavit filed in support of the applications for recalling PW.1 and for marking additional documents, the plaintiff has stated the following reasons:

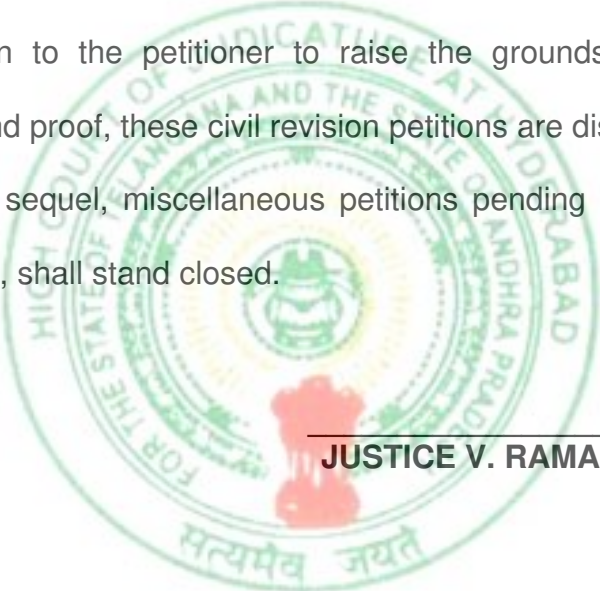
"It is submitted that I filed the above suit against the respondent for specific performance of contract of sale. The respondent filed his written statement and contesting the suit. I was examined as PW.1 and marked Exs.A1 to A6 on my behalf. During the course of cross examination the counsel for the respondent put a question that whether you produced any documentary evidence regarding to Ex.A2 part payment amount of Rs.7,00,000/-. I stated before the Hon'ble Court that I am having proper documentary proof and the same would be produced before the Hon'ble court. One Guraja Tulasi Babu borrowed an amount of Rs.1,50,000/- from me on 10.02.2012 by way of cheque vide No.626638 and he borrowed an amount of Rs.4,00,000/- on 13.07.2011 by way of cheque vide No.626635 and he executed promotes in my favour on relevant dates at the time of borrowing the amounts and he signed on record slips on relevant dates. Said amounts were discharged by said Guraja Tulasi Babu on 13.02.2012 towards full and final settlement of Rs.1,50,275 and Rs.4,42,000/- respectively and endorsed the same on the back side of the promissory notes. I returned the above said two original promissory notes to said Tulasi Babu at the time of discharging the debt i.e., on 13.02.2012 on that he endorsed the same (return of promotes) on the photo state copies of the above said two promotes. Said copies are herewith filing. Further the respondent's counsel put a question that whether I am having Ex.A3 part payment endorsement of Rs.2,50,000/- or not. I stated before the Hon'ble court that on 16.10.2012 I withdrew an amount of Rs.2,50,000/- from my bank i.e., SBI, Bazar Branch, Machilipatnam and same was given to the respondent under Ex.A.3. To prove the said fact I am filing my pass book of SBI, Bazar Branch, Machilipatnam. I further stated that I paid an amount of Rs.1,00,000/- to the respondent on 20.03.2013 by way of cheque vide No.163904 and the same was received by the respondent and signed on record slip of cheque book. Said record cheque book is herewith filing. I am advised that the above said documents are essential to prove my contention. There is no willful default of mine in not filing the same earlier. If the Hon'ble court not

condone the delay for receiving the documents, I will be sustained irreparable loss and inestimable damage.”

4. The trial Court was rightly convinced of the reasons given in the above paragraphs and allowed the applications. I see no irregularity or illegality in the order of the trial Court.

5. Though it is contended by Mr. C. Raghu, learned counsel for the petitioner that these documents are created after the cross-examination, that is a matter on which PW.1 can be confronted during the cross-examination. Merely because the trial Court has allowed these two applications, it does not mean that the truth and validity of the documents are accepted. It is always subject to admissibility and proof. Therefore, leaving it open to the petitioner to raise the grounds with regard to admissibility and proof, these civil revision petitions are dismissed.

6. As a sequel, miscellaneous petitions pending in these revision petitions, if any, shall stand closed.



JUSTICE V. RAMASUBRAMANIAN

7th July, 2017
Js.

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

C.R.P.Nos.3236 & 3237 of 2017



Date: 07-07-2017

Js.