

HONOURABLE SRI JUSTICE P.NAVEEN RAO

CIVIL REVISION PETITION NO.5785 OF 2011

Date: 20.11.2017

Between:

Mandal Deva Deevana, W/o. Indu Bhushan,
Christian, Aged about 42 years, Occu: Advocate,
Amalapuram, East Godavari District.

.....Petitioner/petitioner/
defendant

and

Koyya Naga Satya Suryanarayana,
S/o. Satyanarayana, Aged about 30 years,
Occu: Cable Net Work, D.No.1-22-13,
Sriramnagar, Kakinada, East Godavari Dist.

.....Respondent/respondent/
plaintiff



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

CIVIL REVISION PETITION NO.5785 OF 2011

ORDER:

Petitioner herein is the defendant in O.S.No.190 of 2010 on the file of Senior Civil Judge, Amalapuram, East Godavari District. Suit was instituted for recovery of money alleged to have been borrowed by the petitioner/defendant. Petitioner/defendant filed her written statement. Trial has commenced. P.Ws.1 and 2 were examined and Exhibits A1 to A3 were marked. During the course of cross-examination of P.W.1, Ex.B1 was marked. Evidence of plaintiff was closed on 29.08.2011. Matter was coming up for evidence of defendant. At that stage, petitioner/defendant filed I.A.No.1127 of 2011 praying to permit the petitioner/defendant to receive additional written statement. Through this I.A., petitioner/defendant wanted to incorporate in her written statement the following statement "The plaintiff got issued notice with false allegations; for that the defendant gave reply on 07.08.2010 with true facts". On elaborate consideration of rival contentions, trial Court dismissed the said I.A. Hence, this civil revision petition.

2. Learned counsel for petitioner contends that petitioner/defendant is a young Lawyer. Though she gave a detailed reply to the notice issued controverting the stand of the plaintiff, but due to oversight and mistake, petitioner could not mention the factum of giving reply to the notice caused on her. Learned counsel further submits that no prejudice would be caused to the plaintiff by allowing additional written statement as it was only emphasizing the factum of giving reply to the notice caused on her.

3. On the contrary, learned counsel for respondent/plaintiff submits that since petitioner is an Advocate and when petitioner

clearly states that reply notice was issued, she ought to have mentioned the same in her written statement and she cannot plead ignorance and sought to file additional written statement to contend reply notice was given to the notice caused on her. The evidence of plaintiff was closed and matter was standing at the stage of recording the evidence of defendant. Learned counsel for respondent/plaintiff readout the observations of lower Court in paragraph-8 of the order and justified the view taken by the trial Court.

4. If what is contended by the learned counsel for petitioner is true and a reply was given by the petitioner to the notice caused on her, merely because she was not allowed to file additional written statement does not preclude the petitioner to mark the said document in her evidence. Further, in the counter-affidavit filed on behalf of the respondent/ plaintiff, respondent/plaintiff also clearly stated that it is open to the petitioner/defendant to file the alleged reply notice in her evidence.

5. Having regard to the assessment made by the trial Court in paragraph-8 of the order, as rightly pointed out by the learned counsel for respondent/plaintiff, I do not see any error in the decision arrived at by the lower Court warranting interference by this Court. Civil Revision Petition is accordingly dismissed. However, it is open to the petitioner/defendant to seek marking of the alleged reply notice document in her defense, if so advised.

Miscellaneous petitions, if any, pending shall stand closed.
There shall be no order as to costs.

JUSTICE P.NAVEEN RAO

Date: 20.11.2017
kkm

HON'BLE SRI JUSTICE P.NAVEEN RAO



CIVIL REVISION PETITION NO.5785 OF 2011

Date: 20.11.2017

kkm