THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION No.4387 of 2017

ORDER:

1) Assailing the order, dated 04.08.2017, passed in I.A.No.311 of 2017 in O.S.No.310 of 2009 on the file of the Additional Senior Civil Judge, Tirupati, wherein an application filed under Section 66 of Evidence Act read with 151 of C.P.C., to direct the plaintiff to produce his bank statement for the year 2006 and his account number, was dismissed, the present Civil Revision Petition came to be filed.

2) The facts in issue are as under:

The respondent herein filed O.S.No.310 of 2009 alleging that the petitioner herein borrowed an amount of Rs.2,50,000/- on 25.06.2006 and also borrowed an amount of Rs.1,20,000/- on the same day and executed two promissory notes for the said sum agreeing to repay the same with interest @ 24% p.a. In spite of repeated demands and requests made by the respondent, the petitioner did not pay the said amount, which lead to filing of the said suit.

3) Written statement came to be filed on behalf of the petitioner, denying the allegations made in the plaint. After completion of the evidence of PW.1, the petitioner filed I.A.No.156 of 2011 to summon the Branch Manager, Canara Bank,

Tirumala Branch, since PW.1 in his cross examination stated that he withdrew the amounts from his bank account and paid the same to the petitioner. After due enquiry the said petition was dismissed. Aggrieved by the same C.R.P.No.2724 of 2011 came to be filed before this Court. This Court granted interim stay of all further proceedings in the said suit. Subsequently, the petitioner withdrawn the said C.R.P. with a liberty to avail the remedies available under law. Thereafter, he filed the present petition directing the respondent/plaintiff to produce his bank statement and his bank account number.

4) A counter came to be filed by the respondent/plaintiff contending that the petitioner is delaying the process by filing one petition after another without any iota of truth with a view to procrastinate the litigation.

5) After considering the rival submissions made, the trial Court dismissed the said application. Challenging the same, the present Civil Revision Petition is filed.

6) It is to be noted that the order of withdrawal does not anywhere indicate that the request of the petitioner to summon the bank manager is illegal or improper. He withdraw the Civil Revision Petition with a liberty to avail the remedies available under law, which was accepted. It is to be seen here that the C.R.P. was pending before this Court for a period of five years and the trial Court proceedings were stayed from 2011 to 2016. After withdrawing the C.R.P., the petitioner initiated fresh round of

litigation by filing an application directing the respondent/ plaintiff to furnish his bank account number.

7) It is also to be noticed here that the plea of the petitioner in his written statement was that the suit promissory notes are fake and forged. That being so, the petitioner should have taken steps at the earliest point of time, to prove the same by sending it to an expert. Infact such an observation was made by the trial Court in the earlier round of litigation. Strangely no such steps were taken by the petitioner to prove the same. As the suit is of the year 2009, the request of the petitioner for the relief at this length of time, cannot be accepted.

8) Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

9) As a sequel thereto, Miscellaneous Petitions pending if any, shall stand closed.

JUSTICE C.PRAVEEN KUMAR

06.10.2017
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