

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION Nos.3801, 3943 and 4033 of 2017

18.08.2017

Between:

M/s.Dharmana Motors @ Dharman TVS,
Visakhapatnam

..Petitioner

and

Badri Suryanarayana and another

..Respondents

Counsel for the petitioner: Mr.T.Vishnu Teja

Counsel for the respondents: None appeared

The Court made the following:



COMMON ORDER:

All these three civil revision petitions arise out of the same suit between the same parties. Hence, they are heard and being disposed of together.

2. Respondent No.1 filed O.S.No.225 of 2011 on the file of the Principal Senior Civil Judge, Gajuwaka, for eviction of the petitioner and also for recovery of arrears of rent. After completion of trial, the petitioner filed I.A.No.434 of 2017 for reopening the suit; I.A.No.435 of 2017 to summon the bank manager and I.A.No.436 of 2017 to direct the bank manager to produce the documents pertaining to respondent No.1/plaintiff's bank account. All these I.As. were dismissed by the Court below. Feeling aggrieved by these orders, the petitioner filed these three civil revision petitions.

3. I have heard Mr.T.Vishnu Teja, learned counsel for the petitioner, and perused the record.

4. As per the pleadings of the petitioner, the main purpose for filing the aforementioned I.As. is to prove that he paid rents from August, 2010 to December, 2010, by crediting the same to the bank account of respondent No.1/plaintiff and though respondent No.1 filed Ex.A-16 bank statement showing that the rents for the said period were credited, as the said document was admitted by the Court below subject to respondent No.1 producing the evidence authenticating the said document and as respondent No.1 did not make any effort to authenticate Ex.A-16 statement, the petitioner filed the aforesaid I.As. The Court below, while dismissing the I.As., observed that respondent No.1 himself filed Ex.A-16 statement clearly showing deposit of the amounts in his bank account and also Ex.A-15 letter addressed to respondent No.1 by the bank showing

receipt of D.D. bearing No.189729, dated 12.01.2011, for an amount of Rs.83,225/-. Taking both these documents into consideration, the Court below observed that in the face of these documents, there is no need to summon the proposed witness for causing production of respondent No.1's bank statement.

5. The learned counsel for the petitioner has not disputed the correctness of the findings rendered by the Court below. When respondent No.1 himself produced the relevant evidence, which supports the plea of the petitioner that he paid the rents for the aforementioned period, it is wholly unnecessary for the latter to seek production of the bank account of respondent No.1. Even if Ex.A-16 is not properly authenticated, as the petitioner pleaded payment of rents by crediting the amounts to the bank account of respondent No.1, the burden lies on respondent No.1 to produce his bank account in order to support his stand of denial of receipt of such amounts. If respondent No.1 fails to discharge this burden, the petitioner is entitled to request the Court to draw adverse inference. The petitioner can also rely upon the observations of the Court below in its orders passed while dismissing the aforesaid I.As. with regard to Exs.A-15 and A-16.

6. For the aforementioned reasons, I do not find any merit in these Civil Revision Petitions and the same are, accordingly, dismissed.

7. As a sequel to dismissal of these C.R.Ps., C.R.P.M.P.Nos.4992, 5184 and 5311 of 2017 filed by the petitioner in C.R.P.Nos.3801, 3943 and 4033 of 2017 respectively for interim reliefs shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

18th August, 2017
GHN

