

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

C.R.P. No.500 OF 2017

ORDER:

The plaintiff in O.S.No.391 of 2014 on the file of Principal Senior Civil Judge, Ongole, Prakasam District is the petitioner herein. He filed the said suit for recovery of money from the defendant.

2. After closure of evidence, petitioner filed I.A.No.1224 of 2016 for summoning the defendant as a Court witness and when the said application was dismissed by order dt.16.09.2016, the present Civil Revision Petition is filed.

3. No reason was shown in the affidavit filed in support of the application.

4. In the counter filed by the respondents, they stated that the defendant shall not be called as a witness as he is a party to the suit and did not opt for giving evidence. The plaintiff has no right to summon the witness for confrontation.

5. In those circumstances, the trial Court dismissed the application with the following observation:

“6 (c) The suits is filed for recovery of the amount said to be due under a pronote. To substantiate his contention, the plaintiff has adduced both oral and documentary evidence. As contended by the plaintiff, the counsel for the defendant reported no evidence. Now the petitioner claims that since the defendant did not enter into the witness box and thus denied him the opportunity of eliciting necessary information from him. It is no doubt true that an adverse inference can be drawn if the defendant did not adduce any evidence nor examined

himself before the Court. It is an established principal of law that the party who approaches Court seeking redressal has to prove his case and he cannot rely on the weakness of the defendant's case. Thus, the plaintiff cannot compel the defendant to enter into witness box, who did not at all choose to adduce any evidence. Though the Court is empowered to examine the party to the suit also under the provision referred to above, the same has to be exercised when the Court feels it necessary to do so to arrive at the just decision of the case. In the present case on hand, this court sincerely opines that there are no valid circumstances to accede the relief sought for by the plaintiff.

6 (d) In view of the discussion and finding given above, there are no merits in the petition and the same deserves dismissal. Accordingly, the point is answered."

6. I am in agreement with the said view taken by the trial Court and this Court see no ground to interfere with the order passed by the trial Court.

7. Therefore, this Civil Revision Petition is dismissed. No order as to costs.

8. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.RAMALINGESWARA RAO, J

03rd February, 2017.

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