THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No.1831 OF 2017

ORDER:

Heard learned counsel for the petitioner and learned counsel for the respondent.

This civil revision petition is filed against the order in I.A.No.1557 of 2016 in O.S.No.21 of 2016, dated 14.02.2017, passed by the Court of the Principal Junior Civil Judge, Chirala.

The suit was filed for recovery of money on the basis of promissory note. In the said suit, the present application was filed by the defendant seeking a direction to the plaintiff to cause production of the income tax returns for the years 2012-2013 and 2013-2014 in the Court. The trial Court, by its order, dated 14.02.2017 dismissed the said application on the ground that no plea was taken in the written statement. Against the said order, the present civil revision petition is filed.

The trial Court, in support of its order dismissing the application, gave the following reasoning.

> 5. Upon careful perusal of relevant material on record, it is found that respondent/plaintiff filed this suit for recovery of due amount from petitioner/defendant based on pronote dated 15.07.2013 in which petitioner/defendant filed written statement denying about execution of such promissory note and this Court was pleased to frame issues and respondent/plaintiff got filed chief affidavit of P.Ws.1 to 3 including himself and also got marked exhibits on his side but petitioner/defendant did not get ready for cross examination of P.Ws.1 to 3 and filed this application seeking cause production of income tax returns. But the petitioner/defendant did not produce any piece of evidence to show that respondent/plaintiff is an income tax assessee. Further the petitioner/defendant did not whisper anything in his written statement specifically that respondent/plaintiff is a business man and used to file tax returns for the alleged assessment years. On the other hand, respondent/plaintiff contended that he is rearing cattles and used to sell cattles. If it is so, the version of petitioner/defendant that respondent/plaintiff is a business man cannot be believable at any stretch of imagination. When matter posted for cross-examination of P.Ws.1 to 3, filing this sort of petition

is only with a view to delay and procrastinate the matter but not otherwise, such conduct of petitioner/defendant is not sustainable. Hence, in these circumstances, this Court is of considered view that this petition is devoid of merits and liable to be dismissed with exemplary costs.

I have also carefully perused the written statement, wherein the defendant has taken the following defence.

5. The defendant submits that the defendant never borrowed the alleged suit amount from the plaintiff at any point of time much less on 15.07.2013 the alleged pronote to have been executed by defendant is a concocted, fabricated and forged document by forging of the signatures of the defendant. The defendant never borrowed any amount from the plaintiff at any point of time and no consideration of Rs.1,50,000/- was passed from the plaintiff to the defendant at any point of time. The plaintiff bore grudge against the defendant and filed the present suit against the defendant due to political rivalry. The plaintiff got created the suit promissory note dated 15.07.2013 with the help of his henchmen and got filed the present suit to harass the defendant and to make a wrongful gain from the defendant.

6. The defendant submits that the suit promissory note dated 15.07.2013 is not a valid document as per law, as such, the suit promissory note nonest under law.

7. The defendant submits that the plaintiff never demanded the defendant to pay the alleged promissory note debt. It is equally false to state that the plaintiff went around and demanded the defendant to pay the alleged suit promissory note debt.

There is no whisper in the written statement that the plaintiff is an income tax assessee. It is submitted by the learned counsel for the respondent that no issue with regard to the same was framed.

In the circumstances, this Court feels that the reasoning given by the trial Court in dismissing the application is proper and this Court sees no ground to interfere with the same.

The civil revision petition is accordingly dismissed. Consequently, miscellaneous petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, **J**

14.07.2017
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