

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

Civil Revision Petition No.4756 of 2017

ORDER:

The petitioner, who is the plaintiff in a suit for recovery of money, has come up with the above revision challenging an order rejecting his application for amendment of the pleadings.

2. Heard Mr. N. Pavan Kumar, learned counsel for the petitioner.

3. The suit was filed by the petitioner for recovery of money on four different promissory notes. The promissory notes were allegedly executed by one Mr. Vishumolakala Chakravarthy, who died later. His legal heirs were cited as defendants in the suit.

4. The suit was filed in the year 2008. At the time of trial, after the examination of PW.1 and the marking of Exs.A.1 to A.7, the petitioner/plaintiff filed an application for amendment of the pleadings. The amendment sought by the petitioner was to insert a paragraph in the plaint that the deceased Chakravarthy, had issued cheques, as security for repayment of the amounts. The trial Court dismissed the application for amendment forcing the petitioner to come up with the above revision.

5. The contention of the learned counsel for the petitioner is that what was sought by the petitioner is a pre-trial amendment and that therefore, merely on the ground of delay, the Court could not have dismissed the application for amendment. Reliance is placed

upon a decision of this Court in **Tarigonda Mallikarjuna and others v. Shaik M.A. Ahammad and others**¹.

6. I have carefully considered the submissions. The trial Court did not dismiss the application merely on the ground of delay. This is a case where the petitioner pleaded to have advanced monies to one Chakravarthy, way back in December 2005. The suit itself was filed in the year 2008. Admittedly pre-suit notice was issued on 22.12.2007. Neither in the pre-suit notice nor in the plaint as it was originally filed, did the petitioner make a pleading that cheques were issued by the deceased Chakravarthy. Suddenly the cheques have come to the surface, allegedly when the petitioner was searching for certain documents. According to the petitioner, these cheques were misplaced and they have now come to light.

7. In the light of the aforesaid pleading and also in the light of the fact that the drawer of the cheques is now no more, the trial Court thought it fit to reject the application for amendment. I am of the considered view that the trial Court was right in doing so.

8. The petitioner might have misplaced the cheques or got them mixed up with the other papers. But the fact that the cheques were issued would not have gone out of the memory of the petitioner. Having failed to make a pleading in the pre-suit notice, the petitioner cannot be allowed to introduce cheques in the above theory by way of amendment. Hence, the trial Court was right in dismissing the application.

¹ 2017 (2) Hyderabad Law Times 11

Therefore, the Civil Revision Petition is dismissed. No costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

Date: 22-09-2017

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