

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.3541 of 2017

O R D E R:

This Civil Revision Petition is filed challenging the order dt.01.03.2017 in I.A.No.1414 of 2014 in O.S.No.119 of 2012 of the Senior Civil Judge, Tadepalligudem.

2. Petitioner is defendant in the said suit.
3. Respondent/plaintiff filed the above suit for recovery of money against the petitioner on the basis of a promissory note allegedly executed by the petitioner in his favour on 20.06.2009.
4. In the written statement filed by the petitioner a plea is taken that the said promissory note is a forged document brought into existence by the respondent with the help of scribe and attesor, who are his kith-and-kin. It is denied that the petitioner even borrowed any money from the respondent on 20.06.2009 or any other date.
5. Issues were framed and trial commenced.
6. Thereafter, I.A.No.1414 of 2014 was filed by the

petitioner seeking amendment of the pleadings in the Written Statement by inserting a paragraph from 4(a) taking certain additional pleas that he did not know the respondent, that he sold away all his properties and discharged his debts and also stating that he handed over a demand promissory note to one V.Govinda Rao, who is a friend of respondent and when he requested the said Govinda Rao for settlement, he created the suit promissory dated 20.06.2009 in the name of the respondent with the help of the signature available with him in the promissory note in his custody.

7. This application was opposed by the respondent stating that plea of forgery was already taken in the written statement and trial has commenced and therefore, the further amendment cannot be permitted.

8. The Court below upheld the said objection in the order dt.01.03.2017 in I.A.No.1414 of 2014 by stating that once the trial commenced, unless due diligence is shown, amendment of pleadings cannot be permitted and that PW1 was already examined.

9. Assailing the same, this Revision is filed.

10. Though counsel for petitioner contends that the petitioner wants to elaborate on the plea of forgery by placing certain additional facts on record, petitioner ought to have shown due diligence in seeking to plead the additional facts either in the original written statement or by seeking amendment thereof before the trial commenced.

11. In any event, since the plea of forgery was already taken in the original written statement, it is unnecessary to now allow the petition for amendment to elaborate on the said plea, particularly, when said course of action is prohibited by proviso to Order VI Rule 17 of CPC. I therefore find no error of jurisdiction in the order passed by the Court below, to interfere under Article 227 of the Constitution of India.

12. Accordingly this Civil Revision Petition is dismissed at the admission stage. There shall be no order as to costs.

13. Consequently, miscellaneous petitions pending if any shall stand closed.

M.S.RAMACHANDRA RAO, J

11th August, 2017.

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