HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CIVIL REVISION PETITION No.2782 OF 2017

ORDER:

This civil revision petition is arising out of the order, dated 31.01.2017, passed in I.A.No.416 of 2014 in O.S.No.81 of 0212 by the Senior Civil Judge, Bobbili.

2. I.A.No.416 of 2014 is filed under Rule 130 of Civil Rules of Practice for issuance of court certificate. The revision petitioner is the defendant and the respondent is the plaintiff in O.S.No.81 of 2012, which is filed for recovery of money.

3. For the convenience of reference, the ranks given to the parties before the trial Court will be adopted through out the order.

4. The defendant intends to prove that he has not borrowed any amount from the plaintiff. If the defendant borrowed the amount, it would reflect in the income tax returns of the plaintiff. In fact, the plaintiff has stated that she is not an income tax assessee and did not file any income tax returns, and therefore, no returns are available with the income tax department.

5. It is pertinent to note that the defendant has not given the PAN number of the plaintiff for taking income tax returns submitted by the plaintiff to the Income Tax Department. The trial Court has expressed its inability to issue a certificate under Rule 130 of Civil Rules of Practice mainly on the ground that the PAN number of the plaintiff has not been furnished by the defendant and more particularly when

the plaintiff is denying that she is not an income tax assessee and she has not filed any income tax returns to the Income Tax Department.

6. Heard learned counsel for the petitioner and the revision is disposed of at the stage of admission.

7. The main contention of the learned counsel for the defendant is that the plaintiff is an income tax assessee and she submitted income tax returns and in the said returns she would show the monetary transactions entered into by her and the suit transaction also would reflect in the returns, and therefore, the defendant is seeking a certificate from the Court for securing income tax returns pertaining to the plaintiff from the Income Tax Department.

8. No doubt, the defendant has filed an affidavit mainly denying the suit transaction of borrowing of amount from the plaintiff under the suit promissory note and to prove that aspect, he is seeking certificate under Rule 130 of Civil Rules of Practice. In para 3 of the affidavit, the defendant has stated that he filed an application on 17.12.2015 for summoning the income tax returns before the Commissioner of Income Tax Authorities, Visakhapatnam, and it was not materialized. He further stated that he has also filed copy application before the Income Tax Authorities, Visakhapatnam, dated 11.04.2016, and the same is pending. It appears that the defendant approached the Commissioner of Income Tax Authorities at Visakhapatnam and they are saying that they will send the information

to his address, but they have not sent so far, therefore, he sought a certificate from the Court.

9. On consideration of the averments in the affidavit, I do not see any valid ground to set aside the order passed by the trial Court in dismissing the application for issuance of certificate filed under Rule 130 of Civil Rules of Practice for obtaining income tax returns of the plaintiff from the Income Tax Department. Since the defendant has already stated that he has already approached the Income Tax Department for obtaining the necessary income tax returns pertaining to the plaintiff, he may pursue the remedy with the Income Tax Department and the Income Tax Department may consider, as per the Rules.

10. With the above observation, the civil revision petition is disposed of at the admission stage. No order as to costs.

11. Miscellaneous petitions pending, if any, shall stand dismissed.

G. SHYAM PRASAD, J

21st June 2017.

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