

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

CIVIL REVISION PETITION No.4384 of 2017

ORDER:

Defendants, in O.S.No.70 of 2010 on the file of the V Additional District Judge, Kurnool at Nandyal, are the petitioners in the present revision, filed under Article 227 of the Constitution of India.

This revision challenges the order, dated 07.08.2017, passed by the V Additional District Judge, Kurnool in I.A.No.378 of 2017 in O.S.No.70 of 2010.

In the above suit for specific performance instituted by the respondents herein, after the conclusion of the cross-examination of D.Ws.1 and 2, the defendants filed the present I.A.No.378 of 2017, under the provisions of Order XVI Rule 1 CPC, praying the Court below to summon the Chief Manager, Syndicate Bank Main Branch, Srinivasanagar, Nandyal with a further direction to him to produce the documents mentioned in the application. The learned Additional District Judge, by way of the order impugned, dismissed the said application. Hence, the present revision.

According to the learned counsel for the defendants-petitioners herein, the questioned order is erroneous, contrary to law and opposed to the very spirit and object of the provisions of Order XVI Rule 1 CPC. It is the further submission of the learned counsel that, in the event of the

application being allowed, it would facilitate the learned Additional District Judge to arrive at the just and reasonable conclusion at the time of adjudication of the issues. It is the further submission of the learned counsel that, in order to disprove the plaint averments, it would be highly essential to summon the Branch Manager of the Syndicate Bank. It is also the submission of the learned counsel that, as the plaintiff pleaded in the plaint that the defendants failed to discharge the mortgage debt due to the Syndicate Bank Main Branch, the bank authorities had initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. While referring to the same, it is the submission of the learned counsel for the petitioner that, in order to disprove the same, and to show that there were no encumbrances at any point of time, the evidence of the Bank Manager, Syndicate Bank is highly essential.

A perusal of the order passed by the learned Judge, which is under challenge now in the present revision, reveals that the learned Judge refused to entertain the application filed by the petitioners on the ground that the same is not permissible under the provisions of Order XVI Rule 1 CPC and also on the ground that the proposed documents can be obtained by applying for certified copies. In this context, it

may be appropriate to refer to the affidavit, filed in support of the application. Even as per the said affidavit, the defendants discharged the mortgage debt on 12.07.2017 i.e. subsequent to the date of institution of the suit. In fact, the defendants also did not disclose any information as to the relevance of the said documents mentioned in the affidavit. Therefore, this Court does not find any merit in the present revision.

Accordingly, the Civil Revision Petition is dismissed. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

22nd December, 2017
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A.V.SESHA SAI, J

