

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

C.R.P.No.1413 of 2017

ORDER:

This revision petition is filed under Article 227 of the Constitution of India challenging the order dated 22.02.2017 in I.A.No.167 of 2017 in O.S.No.160 of 2011 of the Senior Civil Judge, Tadepalligudem, West Godavari District.

The petitioners are defendants in the said suit. The respondent/plaintiff filed the said suit against the deceased 1st petitioner/defendant No.1 on the basis of a promissory note dated 10.10.2008 allegedly executed by the deceased 1st defendant in his favour.

The written statement was filed by the 1st petitioner denying the execution of the promissory note and also stating that he was not aware of the respondent/plaintiff at all. He also stated that the suit promissory note is not supported by any consideration. According to him, one Vishnumurthy is the person behind the respondent filing the suit against him and that the said Vishnumurthy had filed another suit i.e. O.S.No.227 of 2011 before the Principal Senior Civil Judge, Kakinada against the 1st petitioner and he is also the person behind the present suit. He further contended that the respondent is a binamidar for the said Vishnumurthy.

The 1st petitioner died on 22.02.2012. Thereafter, trial commenced and the suit was coming up for evidence on the side of the petitioner. At that stage on 03.02.2017 the petitioners filed

I.A.No.167 of 2017 under Order 8 Rule 1-A of C.P.C. to receive the plaint, written statement in O.S.No.227 of 2011 on the file of Principal Senior Civil Judge, Kakinada where the 1st petitioner was arrayed as the 7th defendant and also the suit promissory note dated 15.10.2008 and registered notice dated 21.10.2010 etc, which had been filed by the said Vishnumurthy in the said suit.

The respondent opposed the said application and contended that the documents sought to be filed by the petitioners are irrelevant.

By order dated 22.02.2017 the Court below accepted the contention of the respondent and held that the documents sought to be filed by the petitioners relates to O.S.No.227 of 2011 on the file of the Principal Senior Civil Judge, Kakinada and they are not relevant for consideration in the present suit filed by the respondent against the petitioners basing on different documents.

Challenging the same, the present Revision is filed.

Learned Counsel for the petitioners sought to contend that Vishnumurthy is the person behind both the suits i.e. O.S.No.227 of 2011 as well as 160 of 2011 and it is necessary to place these facts on record in O.S.No.160 of 2011 by marking the documents in question and that the Court below should not have dismissed I.A.

It is not in dispute that both the suits are filed by different plaintiffs in different Courts on the basis of different documents against the 1st petitioner. Even assuming for the sake of argument that the said Vishnumurthy is the person behind both the suits,

the suit cannot be dismissed on that ground if it is otherwise established that the 1st petitioner did execute the promissory notes in question. Therefore, permitting the petitioners to mark the documents relating to O.S.No.227 of 2011 in the instant suit O.S.No.160 of 2011 would not serve any purpose and therefore, the Court below in my opinion rightly dismissed the said I.A.No.167 of 2017.

Therefore, I do not find any merit in the Revision and is accordingly dismissed. There shall be no order as to costs.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

Date: 07.04.2017
kvrn

JUSTICE M.S.RAMACHANDRA RAO

