

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition Nos.6323 and 6324 of 2016

Common Order:

These civil revision petitions arise out of two separate orders passed by the Trial Court refusing to reopen the case for the purpose of recalling D.W.1 to adduce further evidence.

2. Heard Mr. R.Raghunandan, learned Senior Counsel appearing for the petitioner and Mr. Kanakamedala Ravindra Kumar, learned Senior Counsel appearing for the respondent.

3. The respondent herein filed a suit in O.S.No.233 of 2012 on the file of the XIV Additional District Judge, Vijayawada, for recovery of a sum of Rs.7,14,88,800/- against the petitioner herein. In the suit, the father and brother of the Managing Director of the respondent/Company took out a very strange application for impleading themselves as co-plaintiffs. That application was dismissed by the Trial Court and the said order was also confirmed by me by an order dated 17-6-2016 in C.R.P.No.1295 of 2016. Thereafter, the petitioner herein/defendant moved an application seeking to summon a commission agent. Finding that no party can summon his own witness rather than examining him on his behalf, the Trial Court dismissed the said application and the said order was also confirmed by me by an order dated 04-11-2016 in C.R.P.No.3769 of 2016.

4. Thereafter, the petitioner took out one more application to reopen the evidence on the side of the

defendant and for recalling D.W.1 for production of certain documents. This application has been dismissed by the Trial Court forcing the petitioner/defendant to come up with the above civil revision petitions.

5. In an Affidavit containing just 3 paragraphs, filed in support of the application for reopen and recalling D.W.1, the only reason stated by the petitioner before the Trial Court is that he could not produce relevant documents, as they had been seized by the CID of Police, Karnataka. It would be better to extract the only relevant portion of the Affidavit of the revision petitioner filed before the Trial Court as follows:

“2. In my written statement I have clearly and categorically stated that I have supplied the goods to the plaintiff. But at the time of my examination I could not produce the relevant documents, since the said documents were seized by the CID of Police, Karnataka. Now I obtained copies from the concerned and the said documents are relevant and authenticate to support my contention and for better appreciation of the facts of the case.”

6. A bare reading of the above portion would show that the Affidavit in support of the petition to reopen and recall D.W.1 was completely bereft of necessary particulars. We do not know what documents the petitioner wanted to file. In the written statement, there is no indication of any document of the nature now sought to be projected. As a matter of fact, the defence taken in the written statement is that goods have been supplied upon receipt of money. In the additional written statement, the petitioner has stated that he was filing

the account sheets in proof of payments made. Therefore, on the basis of such a bald Affidavit, which does not even disclose the nature of the documents that the petitioner wants to file, the only option open to the Trial Court was to dismiss the applications for reopen and recall. Hence, I find no justification to interfere with the orders of the Trial Court. Therefore, the civil revision petitions are dismissed. The miscellaneous petitions, if any, pending in these revisions shall stand closed. No costs.

06th January, 2017.
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V.RAMASUBRAMANIAN, J.



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