

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CIVIL REVISION PETITION No.878 of 2017

ORDER : (Oral)

Vide the present petition, petitioner seeks directions thereby to set aside the order dated 06.01.2017, passed in I.A.No.1282 of 2016 in O.S.No.129 of 2016 on the file of the Principal Junior Civil Judge, Chilakaluripeta.

2. Petitioner filed application under Order XIII Rule 10 read with Section 151 of CPC seeking the Court to send for document i.e. Memorandum of Understanding Agreement dated 27.10.2014 lying in O.S.No.58 of 2016 on the file of XIII Additional District Judge's Court, Narasaraopet.

3. To decide the application filed by the petitioner as noted above, the point for determination before the Court below was, "Whether the document i.e. Memorandum of Understanding Agreement dated 27.10.2014 can be sent for from the XIII Additional District Court, Narasaraopet in O.S.No.58 of 2016 ?"

4. The trial Court opined as under :

"On perusal of the written statement coupled with the cross-examination of PWs.1 to 3, it seems that it is the defence of the defendant that she did not borrow any amount and the respondent forged the signatures of the petitioner in the pronote and also in the memorandum of understanding. A combined reading of the above evidence, the plaint and the written statement, it seems that the said Memorandum of Understanding Agreement dt.27.10.2014 is in no way related to determine the *lis* between the parties to the suit as the suit is filed only basing on the pronote said to be executed by

the petitioner in favour of the respondent and that too it is not at all the case of the plaintiff or the defence of the defendant that the pronote is the out-come of Memorandum of Understanding Agreement dt.27.10.2014 and as such the Memorandum of Understanding Agreement dt.27.10.2014, which is already filed by the respondent in O.S.No.58/2016 on the file of Hon'ble XIII ADJ, Narasaraopet is in no way concerned to the suit on hand and that too if the signature on the said Memorandum of Agreement of Sale is forged one, it is left open to the petitioner herein to agitate the same before the Hon'ble XIII Addl. District Court at Narasaraopet and can delve into the document in that Court only but not in this suit and it appears that it is not of helpful to determine the *lis* in the main suit and as such the attempt on the part of the petitioner appears to be not a *bona fide* one, which reflects his intention to drag on the case. It is nothing but to drag on the case and as such the petition lacks merits and deserves to be dismissed. Hence, this point is answered accordingly.”

5. Notice issued. Learned Counsel Sri B. Srinarayana accepts notice on behalf of respondent. He opposed the present petition, however, submits that since no legal issue is raised in the petition, there is no need to file counter affidavit.

6. The learned counsel for respondent further submits that as per the provision under Rule 10 of Order XIII CPC, every application made under the said Rule shall (unless the court otherwise directs) be supported by an affidavit showing how the record is material to the suit in which the application is made, and that the applicant cannot without unreasonable delay or expense obtain duly authenticated copy of the record or of such portion thereof as to applicant requires, or that the production of the original is necessary for the purposes of justice.

7. As stated by the counsel for petitioner, the Memorandum of Understanding Agreement, dated 27.10.2014 is filed in O.S.No.58 of 2016, which is pending before XIII Additional District Judge, Narasaraopet. The said document is not marked or exhibited till date. As per Rule 188 of Civil Rules of Practice and Circular Orders in AP/TS (As amended by Notification No.3/SO/2016), dated 15.06.2016, any party to a suit or proceeding shall be entitled to obtain copies of judgments, decrees, or orders made or of any documents exhibited in such suit or proceeding on payment of charges in the manner prescribed under the said Rules. It is not in dispute that the Memorandum of Understanding Agreement dated 27.10.2014 is not exhibited in suit O.S.No.58 of 2016, thus, the petitioner cannot take benefit of the same in O.S.No.129 of 2016.

8. Accordingly, I hereby set aside the order dated 6th January 2017 by directing the Court below to call for the record of O.S.No.58 of 2016 from the Court of XIII Additional District Judge, Narasaraopet; allow the petitioner to exhibit the Memorandum of Understanding Agreement dated 27.10.2014, thereafter substitute and return to the original Court.

9. I hereby made clear that by allowing the petitioner to get said document exhibited/marked, shall not give any right to the petitioner until and unless it is proved in O.S.No.129 of 2016.

10. The revision petition is accordingly disposed of. No costs.

Pending miscellaneous applications, if any, shall stand closed.

SURESH KUMAR KAIT, J

10th March 2017

ajr