

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION Nos.5029 & 5031 of 2010

COMMON ORDER:

Heard both sides and perused the grounds urged in the 2 revisions of the plaintiff impugning the dismissal orders of the lower Court in I.A.No.1034 & 1035 of 2010 dated 12.08.2010 respectively, which are in the pending suit for recovery of money in O.S.No.595 of 2007 on the file of Additional Senior Civil Judge, Eluru, West Godavari District, once is to reopen the plaintiff's evidence and the other is to summon the income tax officer to produce the income tax returns of the defendants of the years 2001-05 in saying those reflect the amounts of part payments made by the defendants to the plaintiff which he is since denying and thereby it is necessary. The lower Court dismissed the applications saying it is belated one and there are no just grounds even otherwise. As held by the Apex Court in **Gopal, Krishnaji Ketkar Vs. Mahomed Haji Latif & Others¹**, it is the duty of the parties in possession of best evidence to produce before the Court irrespective of burden of proof lies on them or not rather than withholding and for any withholding, the Court can draw adverse inference. Thereby there is no necessity to seek summon of those, but for at best by issuing of notice to produce as contemplated by Order XII Rule 8 CPC to produce the income tax return and in case of non-production to draw any inference, but for that there is nothing to interfere with the impugned dismissal orders of the lower Court.

¹ AIR 1968 SC 1413

Accordingly and in the result, the Civil Revision Petitions are disposed of.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 27.12.2017
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