

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.723 OF 2011

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dated 08.02.2011 in I.A.No.502 of 2009 in O.S.No.37 of 2007 on the file of the Court of the Senior Civil Judge, Nandigama.

2. Heard the learned counsel for the petitioners. None appeared on behalf of the respondent.

3. The contention of the learned counsel for the petitioners is two fold: (1) the document in question is a bond and not a hand letter; therefore, it requires stamp duty; and (2) the trial Court has not assigned reasons much less cogent and valid reasons while allowing the petition.

4. A perusal of the record reveals that the respondent herein filed O.S.No.37 of 2007 on the file of the Court of the Senior Civil Judge, Nandigama, against the petitioners for recovery of an amount of Rs.2,00,000/-. Pending suit, the respondent filed I.A.No.502 of 2009 in O.S.No.37 of 2007 under Order VII Rule 14(3) of C.P.C. to receive the hand letter. The petitioners herein filed a counter taking a specific stand that the document in question is a bond and not a hand letter; therefore, the same cannot be received. After affording a reasonable opportunity to both parties, the trial Court allowed the petition. Hence, the revision.

5. The Court has to see whether the petitioner has assigned reasons much less cogent and valid reasons for non-filing of the document at the time of filing of the suit.

6. Learned counsel for the petitioners submitted that the respondent filed the document after lapse of two years.

7. It is the contention of the respondent that the hand letter was filed in a private complaint; therefore, he could not file the document along with suit. This fact was not denied by the petitioners. No specific plea was taken by the petitioners in the counter that the hand letter was not filed in the private complaint. The respondent has assigned reasons much less cogent and valid reasons for non-filing of the document at the earliest point of time. Mere delay in filing of document itself is not a sufficient ground to dismiss the petition.

8. The next contention of the learned counsel for the petitioners is that the document in question is a bond and not a hand letter, which requires stamp duty.

9. It is needless to say that while allowing the petition filed under Order VII Rule 14(3) of C.P.C., the Court ought not to have expressed any opinion with regard to nature of the document. Whether the document in question is a hand letter or bond will be decided by the trial Court at appropriate stage. The contention of the learned counsel for the petitioners that the document shall not be received without payment of stamp duty is not sustainable at this stage. The trial Court considered the scope of Order VII Rule 14(3) of C.P.C. and allowed the petition. The trial Court has

assigned reasons much less cogent and valid reasons while allowing the petition. I am agreeing with the findings recorded by the trial Court. Hence, the revision lacks merits and *bona fides*.

10. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

11. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 10.02.2017

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