

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

Civil Revision Petition No.2790 of 2017

ORDER:

The petitioner, who is the defendant in a suit for recovery of money, has come up with the above revision challenging an order rejecting his application under Order 16 Rules 6, 7 and 15 of the Code of Civil Procedure for summoning the Bank Manager, State Bank of India, Hanuman Junction.

2. Heard Sri E.V.V.S. Ravikumar, learned counsel for the revision petitioner.

3. The suit was filed for recovery of a sum of Rs.18,29,220/-, on the basis of some promissory notes. In the written statement one of the defences taken by the petitioner was that he paid a sum of Rs.50,000/-. The mode of payment, the date of payment and the person to whom the payment was made were all not mentioned in the written statement.

4. But at the stage of examination of the petitioner, he took out an application for summoning a Bank Manager to prove the remittance of Rs.50,000/- allegedly made on 22-10-2011. The application was dismissed by the trial Court, forcing the petitioner to come up with the above revision petition.

5. As I have stated earlier, a bald statement is made in the written statement reading "defendant paid Rs.50,000/-". But in the affidavit in support of the application for summoning the Bank Manager, the petitioner claimed that the amount of Rs.50,000/- was remitted by two persons by name M.V.R. Subramanyam and N.

Satya Rao into the bank account of the plaintiff. Their statement was an improvement over the written statement. Therefore, the petitioner cannot seek to prove what was not pleaded in the written statement.

6. More over anybody making payment into the bank account of the plaintiff, cannot be linked by the defendant to claim that those persons remitted the money sent by the defendant. Hence, there are no merits in the revision.

Therefore, the Civil Revision Petition is dismissed. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

Date: 23-06-2017

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