

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition No.599 of 2017

Order:

The petitioner has come up with the above civil revision petition challenging an order of the Trial Court refusing to direct the plaintiff to produce certain documents.

2. Heard Smt. M.V. Santha Kumari, learned counsel for the petitioner.

3. The respondent has filed a suit for recovery of a sum of Rs.4,67,76,923/- on the basis that over a period of 3 years from 2000 to 2002 they provided funds to the petitioner herein/defendant for development of their business and that the petitioner failed to repay the same. In the suit, the petitioner took out an application in I.A.No.1180 of 2016 for a direction to the plaintiff to produce the following documents:

1. Account books i.e., day book and ledger book of the plaintiff firm for the year financial year 1999-2000 till 2007-2008.

2. Income Tax returns submitted by the plaintiff firm for the financial year 1999-2000 till 2007-2008 including trial balance and profit and loss account.

3. List of debtors submitted by the plaintiff firm before Income Tax Department for the financial year 1999-2000 till 2007-2008.

4. Chartered Accounts' Certified (Certified by P.Madhusudhan) account copy ending with accounting year 30-3-2002 which is filed into cheques return cases in Kurnool filed by plaintiff against the defendant.

5. The same copy of the account copy for the year 2000-01 and 2001-2002 and 2002-2003 styled as account

copy of G.L. Swamy in the books of Sai Bode Hotels which is filed into cheque return cases in Kurnool filed by the plaintiff against the defendant.

6. All the promissory notes, dated 21-8-2001 alleged to have been executed by the defendant herein in favour of plaintiff referred in 6 (six) cheque return cases filed by the plaintiff against the defendant.

7. Any document showing alleged settlement which lead to the alleged execution of suit promissory notes pleaded by the plaintiff i.e., either any sheet showing calculations, accounts, Memorandum, account statement etc.

4. The Trial Court dismissed the application forcing the defendant to come up with the present revision.

5. It is admitted by the petitioner that the petitioner earlier served a notice upon the respondent under Order XII, Rule 8 CPC, seeking them to produce the very same list of documents. The respondent has not produced the same. If after service of notice to produce, a party to a proceeding does not produce the documents called for, it is always open to the other party to request the Court to raise a presumption available in law. As a matter of fact, the plaintiff has pleaded in the suit that the payments to the petitioner were made by way of demand drafts and telegraphic transfers through Tamil Nadu Mercantile Bank Limited and that they were evidenced by the promissory notes. Therefore, it is for the plaintiff to produce these documents, especially when a notice has been served on them. If they refused to produce those documents, the petitioner can only seek an adverse inference to be drawn. Therefore, the Trial Court was right in rejecting the

application. Hence, the civil revision petition is dismissed. The miscellaneous petitions, if any, pending in this revision shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

03rd February, 2017.
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