

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.839 of 2017

ORDER:

This Civil Revision Petition under Article 227 of the Constitution of India is filed by the petitioner-plaintiff aggrieved by the order dated 31.12.2016 passed in I.A.No.211 of 2016 in O.S.No.2 of 2010 on the file of I Additional District Judge, Chittoor, wherein the application filed by the petitioner under Order VII Rule 14 (3) of the Code of Civil Procedure to receive the certified copy of registered sale deed dated 21.05.1988, came to be dismissed.

Heard both sides.

A perusal of the material on record would show that the respondent-defendant borrowed a sum of Rs.8,00,000/- from the petitioner-plaintiff on 20.12.2006 to meet his business needs agreeing to repay the same together with interest @ 24% per annum. A promissory note came to be executed by the respondent in favour of the petitioner on the same day. After repeated demands, the respondent issued a cheque bearing No.717509 drawn on Indian Bank, Kongareddipalle, Chittoor, in discharge of his debt and the same was dishonoured on presentation. *In spite* of issuance of a legal notice, the respondent failed to discharge his debt. Hence, the petitioner filed O.S.No.2 of 2010 before the I Additional District Judge, Chittoor, for recovery of money. During the pendency of the same, the petitioner filed I.A.No.216 of 2015 for recasting the issues which was allowed by framing an additional issue. Thereafter, the matter was posted for further evidence. Finally on 22.06.2016, the plaintiff's evidence was closed and the matter was posted for arguments on 27.06.2016.

At that point of time, petitioner filed the present I.A. seeking to receive the document viz., certified copy of registered sale deed dated 21.05.1988 contending that said document is very much essential for proving his case. Respondent filed counter opposing the application. After considering the rival submissions made, the Court below dismissed the application. Challenging the same, the present revision came to be filed.

A perusal of the material placed before this Court would show that the suit is at the stage of arguments. Basing on the contents of the written statement that the petitioner had no capacity to lend the amount, an additional issue came to be framed on 22.01.2016. Basing on the said issue, both the parties adduced evidence and the case was posted for arguments to 27.06.2016. At that point of time, present application came to be filed. The purpose of filing the document is to prove the additional issue framed i.e. as to whether the plaintiff had capacity to lend such an amount to the defendant?. It is to be noted that the document, which is sought to be marked, is of the year 1988 wherein the petitioner is said to have sold certain property. It is the contention of the petitioner that with the amount realized from the said sale, he undertook some contract works, earned money and thereby he got financial capacity to lend the amount to the respondent.

But, as seen from the record, in the year 1994 itself petitioner filed Insolvency Petition No.9 of 1994 stating that he is unable to pay the amounts taken from his creditors. The money transaction in respect of the instant case took place on 20.12.2006. Further, on a perusal of the docket proceedings in

O.S.No.2 of 2010, it appears that the petitioner was postponing the matter on one pretext or the other. Hence, I see no reason to interfere with the impugned order and the revision petition is devoid of merits.

Accordingly, the Civil Revision Petition is dismissed.

Miscellaneous petitions pending in this revision, if any, shall stand closed. No costs.

JUSTICE C. PRAVEEN KUMAR

09.03.2017
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