

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.4362 of 2017

ORDER:

Assailing the order dated 27.07.2017, passed in E.A.No.47 of 2017 in O.E.OP.No.48 of 2016 in O.S.No.285 of 2015 on the file of the Principal Junior Civil Judge, Punganur, wherein the application filed under Order VIII Rule 1 (A) and Section 151 of C.P.C. to receive the document by condoning the delay, was rejected, the present Civil Revision Petition is filed under Section 115 of C.P.C.

2. The respondent herein filed a suit for recovery of Rs.1,94,600/- with interest, basing on a promissory note. The petitioner, who is the defendant in the suit remained exparte. By its judgment dated 18.04.2016, an exparte decree was passed. Basing on the said exparte decree, the respondent herein filed E.P. for realization of the decretal amount. No application came to be filed by the defendant seeking to set aside the exparte decree, though the E.P. was filed by the decree holder. It is said that there was an agreement which was reduced into writing in Rs.100/- non-judicial stamp on 06.05.2017, wherein the elders suggested to settle the matter and accordingly, the judgment debtor agreed to pay a sum of Rs.1,50,000/- and the decree holder agreed to withdraw the E.P. Hence, he filed E.A.No.47 of 2017 requesting the Court bring those documents on record, which discloses payment of money to the decree holder.

3. A counter came to be filed by the decree holder contending that the document which is sought to be received is a fabricated document.

4. After considering the rival submissions made, the Court below dismissed the said application. Challenging the same, the present Civil Revision Petition came to be filed.

5. Learned counsel for the petitioner submits that the document can be brought on record subject to admissibility, proof and relevancy and thereafter take into consideration the evidence adduced by both the parties. It is pleaded that since the agreement between the parties does not require stamp duty, the Court below may be directed to permit the petitioner to bring the same on record.

6. In spite of service of notice on the respondent, there is no representation on behalf of the petitioner.

7. Having regard to the facts and circumstances of the case and in view of the plea taken by the petitioner that the agreed amount was paid to the decree holder in the month of May, 2017 itself, which is denied by the respondent in their counter, this Court feels that it would be just and proper to direct the Court below to receive the document subject to its admissibility, proof and relevancy.

8. With the above direction, the Civil Revision Petition is disposed of. There shall be no order as to costs.

As a sequel, Miscellaneous Petitions pending if any in this Civil Revision Petition, shall stand closed.

03.11.2017
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C. PRAVEEN KUMAR, J

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DATED: 03.11.2017

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