

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

CIVIL REVISION PETITION No.2877 of 2017

ORDER:

This revision is filed by the petitioner/defendant aggrieved by order, dated 19.12.2016, in I.A.No.2945 of 2016 in O.S.No.126 of 2011 on the file of the Additional Senior Civil Judge, Kadapa, whereby the learned Judge dismissed the petition filed by the petitioner under Order XVIII Rule 17 C.P.C. seeking to recall PW.1 for further cross-examination.

2. Having heard learned counsel for the petitioner and perused the impugned order and copy of plaint and written statement in O.S.No.126 of 2011, this Court is of the view that the revision can be disposed of at the admission stage, without the necessity of ordering notice to the respondent.

3. The suit is filed by the respondent/plaintiff on the strength of three promissory notes said to have been executed by the petitioner/defendant. The petitioner herein denied execution of the promissory notes and in his written statement narrated the circumstances under which coercion and undue influence was allegedly applied on him to obtain the three demand promissory notes without there being any consideration.

4. It is true that PW.1 was cross-examined by the defendant. However, it appears some important aspects relating to the pleadings in the written statement are not put to PW.1 during cross-examination. Having regard to the fact that this is a money suit based on the

strength of three promissory notes, each for Rs.1,00,000/-, and in the event the suit is decreed, the defendant is liable to pay the suit amount, this Court is of the view that an opportunity shall be given to the defendant for further cross-examination.

5. Accordingly, the revision is allowed and impugned order in I.A.No.2945 of 2016 in O.S.No.126 of 2011 on the file of the Additional Senior Civil Judge, Kadapa, is set aside and consequently, the said petition is allowed and the trial Court is directed to recall PW.1 for further cross-examination by the petitioner/defendant on payment of costs of Rs.1,000/- (Rupees one thousand only) by the defendant to the plaintiff. The cross-examination shall be completed in one sitting on a day fixed by the trial Court.

6. Miscellaneous petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

21st July 2017

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