

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

CIVIL REVISION PETITION No.1427 OF 2017

Dated:13.06.2017

Between:

P. Ramgopal Rao, S/o. P.C. Rao,
Aged about 69 years,
R/o.H.No.2-5-358, Nakkalagutta,
Hanamkonda, Warangal .. Petitioner

AND

Tikka Sambashivudu,
S/o. Late Nagamallaiah,
Aged about 41 years,
R/o. Palivelpula Village,
Hanamkonda Mandal,
Warangal District and others .. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**CIVIL REVISION PETITION No.1427 OF 2017****ORDER:**

Petitioner is plaintiff. He filed O.S.No.419 of 2009 praying to grant decree of specific performance of agreement of sale dated 15.06.1984. During the pendency of the suit, petitioner filed I.A.No.387 of 2016 to send for the document bearing Cheque No.653721, dated 15.06.1984 from the State Bank of Hyderabad, Hanamkonda Branch. The said I.A. was contested by the defendants.

2. On consideration of the material placed on record, the trial Court noticed that there was discrepancy with regard to the dates, on which the cheque was issued and therefore the trial Court doubted the genuineness of the claim made by the petitioner. The trial Court observed that without there being any pleadings, evidence cannot be adduced and dismissed the said I.A.

3. A perusal of the copy of the plaint and the affidavit filed in support of the I.A., discloses that two different dates are mentioned with regard to issuance of cheque bearing No.653721 and therefore the trial Court cannot be found fault with, when it observed that different dates were mentioned at various places.

4. Learned counsel for the petitioner now produced the certified copy of the plaint, which shows corrections, and contends that in fact the dates were already corrected and corrected dates were already reflected in the plaint. However, learned counsel fairly

submits that the trial Court was not informed about the same during the course of hearing of the said I.A.

5. Furthermore, it is to be seen that even assuming, there is only one date i.e., 15.06.1984, when cheque was issued, there is no other material on record to show that the petitioner has obtained the relevant information from the bank about encashment of the cheque alleged to have been issued by him. It is appropriate to note, at this stage, that the defendants in the written statement denied making such payment. Thus, the petitioner ought to have taken immediate steps to ascertain from the bank about encashment of the cheque, but no endeavour was made by him. It is also clear from reading of the affidavit filed in support of the I.A., that the petitioner kept quiet for more than seven years after filing of written statement and at the stage of commencement of trial, the said application was filed. It cannot be expected that the bank would maintain the record of transactions alleged to have taken place in the year 1984.

6. Having regard to the fact that the alleged cheque was issued on 15.06.1984 and when specific objections were raised in the written statement, I do not see any justification for the petitioner to keep quiet all along and file this application to call for the records from the bank. Thus, there is no merit in the claim of the petitioner and the Civil Revision Petition is liable to be dismissed.

7. The Civil Revision Petition is accordingly dismissed.

8. As per the certified copy of the plaint, now produced before this Court, it is clear that the corrections were already carried out

and there may not be any discrepancy. It is needless to observe that having regard to the specific stand of the learned counsel for the petitioner that corrections were already made in the copy of the plaint, he shall bring the changes/corrections carried out in the plaint to the notice of the trial Court. There shall be no order as to costs.

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

P. NAVEEN RAO, J

Date:13.06.2017

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