

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition No.6505 of 2016

Order:

Aggrieved by the order passed by the Trial Court allowing an application to issue summons to the General Manager, BSNL, Vijayawada, to produce the Attendance Register and absent statement, the plaintiff in the suit for recovery of money, has come up with the present revision.

2. Heard Mr. S.Subba Reddy, learned counsel for the petitioner.

3. On 04-01-2017, notice was ordered in the revision and an interim stay was granted. Personal notice was also permitted. Service is now complete. However, the respondent has not chosen to enter appearance. Therefore, the matter was taken up for consideration on merits.

4. As stated earlier, the suit was filed by the petitioner/plaintiff for recovery of money due on a promissory note. The trial commenced and 3 witnesses were examined on the side of the petitioner/plaintiff. 3 documents were marked as Exts.A-1 to A-3.

5. The respondent examined himself as D.W.1 and filed one document as Ext.B-1.

6. The respondent/defendant took a plea that on the day of the alleged transaction and the execution of promissory note, he was working at a place 35 to 48 kms., away from the

place of transaction. Therefore, he claimed that he could not have executed the promissory note.

7. In order to support his contention, the respondent took out an application to summon the records from the office of his own employer. The same was allowed by the Trial Court, by the order impugned in the revision. Hence, the present revision.

8. The main grievance of the petitioner is that the respondent is seeking to prove something that he did not plead in the written statement. The contention that on the date of execution of the promissory note he was working away from the station was not raised in the written statement. In any case, working at a place 35 to 40 kms., away from the place of the transaction, may not really be a ground, since anybody can reach the place of occurrence within a maximum of one hour. In other words, the summoning of the records, is wholly unnecessary. Hence, the revision is allowed and the impugned order is set aside. It is open to the respondent to lead any evidence other than the summoning, to establish his case. The miscellaneous petitions, if any, pending in this revision shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

17th February, 2017.
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