

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

C.R.P.No.5680 of 2017

ORDER:

The defendant in O.S.No.34 of 2016 on the file of the Court of the Junior Civil Judge, Pattikonda is the petitioner in the present revision, filed under Article 227 of the Constitution of India.

The plaintiff/respondent herein instituted the said suit for recovery of amount on the foot of pronote. In the said suit, the defendant/petitioner herein filed I.A.No.324 of 2016 under Order VIII Rule 1(A) read with Section 151 CPC, praying for leave of the Court to file certain documents. The said application was resisted by the plaintiff/respondent herein. The learned Judge allowed I.A.No.324 of 2016 in part to the extent of pattadar passbook while rejecting other documents.

According to the learned counsel for the defendant/petitioner herein, the impugned order is neither sustainable nor tenable in the eye of law and is highly erroneous and not in accordance with the provisions of Order VIII Rule 1(A) CPC. On the other hand, it is contended by the learned counsel for the plaintiff/respondent herein that the impugned order to the extent of denying the relief as sought for by the petitioner is correct and to that extent, no interference of this Court is warranted.

The information available before this Court discloses in clear terms that the plaintiff/respondent herein while opposing the application filed by the defendant/petitioner herein, filed a counter taking a number of objections for receipt of the documents. A perusal of the order under challenge discloses that the learned

Judge did not consider any one of the averments in the counter-affidavit nor considered the objections taken therein. In the considered opinion of this Court, the said exercise undertaken by the learned Judge cannot be sustained in the eye of law. When objections are raised on maintainability of an application, it is incumbent on the part of the Court to answer the same in one way or the other. The said exercise is conspicuously absent in the instant case. Therefore, this Court is of the opinion that the matter requires reconsideration by the Court below after taking into account the averments in the affidavit filed in support of the said application, so also the counter filed by the plaintiff/respondent herein, opposing the application. It is also incumbent on the part of the Court to consider as to whether the request of the petitioner is in accordance with the provisions of Order VIII Rule 1(A) CPC.

For aforesaid reasons, the Civil Revision Petition is allowed, setting aside the order dated 15.09.2017 in I.A.No.324 of 2016 and the matter is remanded to the Court below for passing orders afresh after hearing all the stakeholders.

Miscellaneous petitions, if any, pending in this petition shall stand closed.

A.V. SESA SAI, J

22nd December, 2017.
ssp