

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.R.P.No.235 of 2018

ORDER:

This revision petition is filed under Article 227 of the Constitution of India assailing the orders dated 18.12.2017 passed in I.A.No.2249 of 2017 in O.S.No.19 of 2015 on the file of Additional Senior Civil Judge Court, Eluru, West Godavari District.

2. Heard the learned counsel for the petitioner and perused the material available on record.

3. The point that arises for consideration is:

“Whether there is any illegality, irregularity or impropriety in the impugned order?”

4. A perusal of the record reveals that the first respondent filed O.S.No.19 of 2015 on the file of Additional Senior Civil Judge Court, Eluru, West Godavari District, against the petitioner and others for recovery of an amount of Rs.1,42,542/- with future interest. The petitioner filed written statement *inter alia* contending that the suit filed by the first respondent is liable to be dismissed. After completion of evidence on both sides, the trial Court reserved the matter for judgment. At that point of time, the petitioner filed a petition under Section 151 CPC to reopen the matter to recall P.W.1 for further cross-examination. The first respondent filed counter *inter alia* contending that the petitioner filed the present petition with an intention to drag on the matter; therefore, the petition is liable to be dismissed. The trial Court

after affording a reasonable opportunity to both parties, dismissed the petition. Hence, the revision.

5. Learned counsel for the petitioner submitted that the petitioner is intending to confront P.W.1 with reference to certificate issued by Vijaya Bank.

6. This Court carefully perused the written statement filed by the petitioner. There is no mention in the written statement that the receipt in question was issued by Vijaya Bank. There is no foundation about this document in the written statement. A perusal of page – 23 material papers reveals that this receipt was issued much prior to the date of filing of written statement. The petitioner filed the written statement in the year 2015.

7. I have carefully perused the affidavit filed by the petitioner before the trial Court. As per the averments made in the affidavit, he traced out the clearance certificate recently. There is no mention in the affidavit when he traced out the certificate. The petitioner has not assigned reasons much less cogent and valid reasons for non-production of the certificate at the time of cross-examination of P.W.1. The trial Court made an observation that the petitioner has cross-examined P.W.1 at length. The possibility of filing of this type of petitions after posting the matter for judgment with an intention to drag on the proceedings cannot be ruled out completely. The trial Court considered the material available on record in right perspective and dismissed the petition. The trial Court has assigned reasons much less cogent and valid reasons to its findings. I am fully endorsing with the findings

recorded by the trial Court. There is no illegality, irregularity or impropriety in the orders of the trial Court warranting interference of this Court, while exercising the jurisdiction under Article 227 of the Constitution of India. Hence, the petition is liable to be dismissed.

8. In the result, the Civil Revision Petition is dismissed. There is no order as to costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

T.SUNIL CHOWDARY, J

Dt:13.12.2018

Rns

