

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.551 OF 2018

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed challenging the order dated 11.12.2017 in I.A. No.818 of 2017 in O.S. No.186 of 2015 on the file of the Senior Civil Judge, Bobbili, Vizianagaram district, whereby petition filed by the petitioner/defendant under Order VIII Rule 9 CPC to receive additional written statement was dismissed.

2. Heard both sides and perused the record.

3. The respondent/plaintiff filed the suit for recovery of money against the petitioner/defendant basing on the promissory note marked as Ex.A1. The petitioner/defendant filed written statement contending that the suit promissory note is a forged one. Thereafter, he filed the present petition seeking to receive additional written statement whereby he wants to take the plea that on the date of execution of the suit promissory note, he was not at Bobbili.

4. As seen from the impugned order, the petitioner/defendant received summons on 26.01.2016 and filed his written statement on 21.04.2016 i.e. nearly 3 months after receipt of the summons. The reason assigned by the petitioner/defendant for not taking the said plea in the original written statement is that he gave instructions to his advocate in hurried manner and could not inform him about the said defence. The defence which the petitioner/defendant seeks to take, was within his knowledge by the time of filing written statement. His contention that because he gave instructions to his counsel

hurriedly, he could not take the said plea in the written statement, cannot be accepted. In the suit, plaintiff side evidence was closed and it is coming up for defendant side evidence. The Court below assigned cogent reasons and dismissed the petition. There is no infirmity in the said order calling for interference by this Court exercising the supervisory jurisdiction under Article 227 of the Constitution of India. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

5. The Civil Revision Petition is, accordingly, dismissed. No costs.

Miscellaneous Petitions pending, if any, in the revision shall stand closed.

08.06.2018
DRK



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