

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.1600 OF 2018

ORDER :

This Civil Revision Petition is filed against order dated 02.02.2018 in I.A.No.30 of 2018 in O.S.No.30 of 2013, wherein and whereby the application filed under Order 11 Rule 14 of CPC to produce the documents which are in exclusive possession of respondent/plaintiff is dismissed.

Heard learned counsel for the petitioner and learned counsel appearing for the respondent.

Learned counsel for the petitioner submits that he has taken a plea that the respondent/plaintiff does not have the capacity to lend money to the petitioner/defendant, as such, petitioner filed petition for production of documents. He submits that the Court below, without considering the said aspect, dismissed the application.

On the other hand, learned counsel for the respondent/plaintiff submits that P.W.1 in her examination at no point of time stated that she is in possession of the bank account of her daughter and never stated that she is in possession of document under which her husband has alienated the property. He submits that the respondent/plaintiff never drawn any amount from the bank account of her daughter. He submits that the petitioner is seeking bank particulars of daughter of respondent/plaintiff, who is not a party to the suit.

A perusal of record goes to show that when the respondent/plaintiff is not relying on any of the documents i.e., bank account papers, the question of production of such documents does not arise at all. The trial Court, having considered the said aspect, rightly dismissed the application by observing as follows:

“10. The evidence of P.W.1 shows that at no point of time she has stated that she is in possession of the bank account of her daughter and also stated that she is in possession of document under which her husband has alienated the property. The 3rd document which he sought is any document to prove the possession of that much amount. The evidence of P.W.1 shows that at no point she stated that she is in possession of all these documents.

11. On the other hand the burden of discharging the burden will shift on the plaintiff when the person who admits the execution of Negotiable Instrument discharges the onus that there was no passing of consideration. This point has to be decided basing on the evidence adduced by the parties. At no point in the counter the respondent has stated that she is in possession of these documents. IN the said circumstance, the court cannot direct the respondent to produce these documents. As such, there are no merits in the petition filed by the petitioner.”

In view of above observation of the Court below, this Court is of the opinion that there is no infirmity or illegality in the order passed by the Court below, warranting interference by this Court Article 227 of the Constitution of India.

Accordingly, this Civil Revision Petition is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand dismissed.

A.RAJASHEKER REDDY, J

03.08.2018
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Date: 03.08.2018

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