

*THE HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

*THE HON' BLE MS. JUSTICE J. UMA DEVI

+ CIVIL REVISION PETITION No.1925 of 2018

%12.04.2018

Between:

R. Gireeshwar Reddy S/ o. Yella Reddy,
Jubilee Hills, Hyderabad and others

.. Petitioners

Vs.

\$ Indusind Bank Limited,
Secunderabad Branch,
Rep. by its Authorized Officer and another

.. Respondents

! Counsel for petitioners : Smt. V.Dyumani

^ Counsel for respondents :

<GIST:

>HEAD NOTE:

? CASES REFERRED: ----



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ORDER: (Per V.Ramasubramanian, J)

Aggrieved by the dismissal of an application for amendment of the written statement, the respondents before the Debts Recovery Tribunal have come up with the above revision petition.

2. Heard Mrs.V.Dyumani, learned counsel for the petitioners.

3. The reasonings given by the Tribunal for the dismissal of the application of the petitioners for amendment of the written statement, which if extracted would clinch the issue. Hence the relevant paragraph of the order of the Tribunal is extracted as follows:

"I have gone through the material brought on record. The Petitioners-Defendants made their appearance on 7.3.2006 and filed written statement on 1.4.2009. The Respondent-appellant Bank closed evidence on its behalf on 23.12.2017. The Petitioners – Defendants examined one evidence as DW1 and closed the evidence on their behalf on 19.1.2018. The instant petition is moved by the Petitioners-Defendants on 13.2.2018 that is after more than 9 years of filing the written statement. It is not understandable as to how they cross-examined AW-2 and examined DW-1 on their behalf without having copy of the written statement with them. It is unbelievable that the Petitioners-Defendants located copy of the written statement very recently. Even otherwise, they had already taken the plea in para 2 of the written statement that late Smt.K.Nageswaramma never signed the sanction letter dated 23.3.2002 in token of acceptance of the terms and conditions therein. Therefore, the instant petition for amendment, in my considered view, is to protract the litigation and accordingly, the petition is liable to be dismissed."

4. The facts disclosed in the above paragraph would persuade any Court including this Court to dismiss the application for amendment of the written statement filed after 9 years and especially after completion of the evidence of DW1 on their behalf. Moreover, a comparison of the amendment that The petitioners want to make to their written statement, with the written statement that they earlier filed would show that nothing new is sought to be added by the petitioners by way of amendment. This can be demonstrated by extracting the amendments sought to be made by the petitioners, together with the original claim made in the written statement on a tabular form side by side.

Amendment now sought to be made	The pleadings in the original Written statement
3(a) It is submitted that the Defendants did not accepted the Sanction Letter and resubmitted the same to the Bank in token of acceptance so as to release the amount. 3(b) It is further submitted that the “since the Borrower has not accepted the Sanction Letter the Applicant bank has not released the loan amount to the Borrower”. 3(c) It is submitted that the Borrower/ Defendants have not availed any loan facilities from the Applicant Bank, much less the Indus Estate Loan/ Term loan facilities granted by the Applicant Bank. 3(d) It is further submitted that the Borrower/ Defendants do not have any other account with the Applicant Bank and have not authorized the Applicant Bank to credit their Account and debit the loan proceeds to the Term Loan account”.	Late Smt. K.Nageswaramma has never signed the Sanction Letter dated 23-03-2002 in token of acceptance of the terms and conditions stipulated therein. Hence, the terms and conditions contained in the said Sanction Letter are not binding on the Defendants. No loan and security document was signed by late Smt. K.Nageswramma and hence, no liability can be fastened either on her or her Legal Representatives, the Defendants 2 to 6 herein.

5. Thus, there is virtually no difference between the previous pleadings and the amendment now sought to be made. Hence, the Tribunal was right in dismissing the application.

6. Therefore, the civil revision petition is dismissed. Consequently, miscellaneous petitions if any pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

April 12, 2018
KTL

