

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No.2083 of 2018

06.04.2018

Between:

Lalam Srinivasarao and another

..Petitioners

and

The State Bank of India (ADB),
Narsipatnam, Visakhapatnam

..Respondent

Counsel for the petitioners: Mr.K.Subrahmanyam

Counsel for the respondent: --

The Court made the following:



ORDER:

This Civil Revision Petition arises out of order, dated 17.10.2017, in I.A.No.389 of 2017 in O.S.No.128 of 2016 on the file of the learned Senior Civil Judge, Narsipatnam.

2. The respondent has filed the aforementioned suit for recovery of money based on Ex.A-4 mortgage deed. Initially, the respondent has examined only P.W.1 – its Officer to prove Ex.A-4. Later, upon realising that the evidence of the scribe and the attestors to Ex.A-4 is necessary to prove the said document, the execution of which has been denied by the petitioners/defendants, the respondent has filed I.A.No.389 of 2017 for reopening its side evidence for examining the scribe and the attestors. The said application having been allowed by the Court below, the petitioners/defendants filed this Civil Revision Petition.

3. Mr.K.Subrahmanyam, learned counsel for the petitioners, has submitted that the Court below has committed an error in allowing the aforementioned I.A. filed by the respondent as it sought to fill the lacunae in the evidence which is not permissible.

4. When the petitioners/defendants have disputed the execution of Ex.A-4 mortgage deed, the burden lies on the respondent/plaintiff to prove the same by producing the evidence of the scribe and the attestors. On realising that their

non-examination would result in dismissal of the suit, the respondent has filed the aforementioned I.A. Therefore, it is not a case where the respondent is seeking to adduce evidence to fill the lacunae in the evidence already given. On the contrary, it intends to adduce further evidence in support of its plea that the petitioners executed Ex.A-4 mortgage deed. Hence, the Court below has rightly exercised the discretion in favour of the respondent.

4. The Civil Revision Petition is, accordingly, dismissed.

5. As a sequel to dismissal of the C.R.P., I.A.No.1 of 2018 filed by the petitioners for interim relief stands dismissed as infructuous.

06th April, 2018
GHN

C.V.NAGARJUNA REDDY, J