

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

CIVIL REVISION PETITION Nos.3403 and 3469 of 2018

06.07.2018

Between:

T.Nanaji

..Petitioner

and

K.B.Suryanarayana

..Respondent

Counsel for the petitioner: Mr.Prabhala Raja Sekhar

Counsel for the respondent: --

The Court made the following:



COMMON ORDER:

These two Civil Revision Petitions arise out of separate orders, dated 12.03.2018, in I.A.Nos.81 and 82 of 2018 respectively in O.S.No.292 of 2010 on the file of the learned Principal Senior Civil Judge, Anakapalli, Visakhapatnam District.

2. The petitioner is the defendant in the aforementioned suit filed by the respondent for recovery of money based on a promissory note. He filed written statement, wherein, he referred to the Police complaint against the father of the respondent/plaintiff for presenting a blank cheque issued by the petitioner in the Bank in spite of the alleged payment made by him. He also pleaded payment of sums of Rs.37,000/- on 15.05.2008 and Rs.11,000/- on 23.07.2008 through cheques and Rs.3,800/- on 23.07.2008 by cash. After closure of the evidence on the respondent's side and when the matter was coming up for further evidence of D.W.1, the petitioner has come up with the aforementioned I.As. i.e., I.A.No.81 of 2018 filed under Order VIII Rule 1(a) of the Code of Civil Procedure, 1908, for condonation of delay in filing the list-mentioned documents *viz.*, receipts given by Kurmannapalem Police Station on 12.07.2012 and 31.12.2015, copy of F.I.R. in crime No.8 of 2016 supplied by the Police and notice issued by learned VIII Additional Chief Metropolitan Magistrate, Gajuwaka and original copy of D.D.R. No.794 of 2016; and I.A.No.82 of

2018 filed under Order XVIII Rule 17 C.P.C. for recalling D.W.1 for further chief examination to enable the petitioner for marking the aforementioned documents. In the affidavits filed in support of these I.As., the only reason assigned by the petitioner for not producing those documents earlier was that they were retained by his counsel at Gajuwaka and that therefore, he could not file them within time.

3. From the facts discussed above, it is clear that in the written statement filed on 25.07.2012 itself, the petitioner referred to his complaint given in the Police Station against the father of the respondent. Receipt, dated 12.07.2012, shown at serial No.1 of the list-mentioned documents in the affidavits filed in I.A.Nos.81 and 82 of 2018 relates to the said complaint. If such receipt was in possession of his counsel at Gajuwaka, nothing prevented him from filing the same along with the written statement. As regards the documents shown at serial Nos.2 to 5, they all pertain to the post written statement period, which are obviously self-serving documents, having no evidentiary value. At any rate, those documents, which came into existence in the years 2015 and 2016, as the case may be, ought to have been produced by the petitioner, at least, before the commencement of trial, had he been diligent in pursuing his cause. In these facts and circumstances of the cases, the Court below has rightly dismissed both the I.As.

4. Hence, I do not find any merit in these Civil Revision Petitions and they are, accordingly, dismissed.

5. As a sequel to dismissal of these Civil Revision Petitions, I.A.No.1 of 2018 in C.R.P.No.3403 of 2018 filed by the petitioner for interim relief stands dismissed as infructuous.

06th July, 2018
GHN

C.V.NAGARJUNA REDDY, J

