

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No. 2991 of 2018

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/defendant assailing the order, dated 05.01.2018, of the learned Judge, Family Court-cum-VIII Additional District Judge, Prakasam at Ongole, passed in I.A.No.1069 of 2016 in O.S.No.128 of 2015.

2. I have heard the submissions of Sri M. Sudheer Kumar, learned counsel for the petitioner/defendant ('the defendant' for brevity). Though the notice is served upon the respondent/plaintiff ('the plaintiff', for brevity), he has not entered appearance.

3. I have perused the material record.

4. The facts, which are necessary to be stated as a prelude to this order, in brief, are as follows:

"The plaintiff brought the suit against the defendant for recovery of money in a sum of Rs.34,53,314/- on the foot of a promissory note, dated 22.10.2012. The defendant filed a written statement contending that he never borrowed any amount from the plaintiff on the said date by executing the alleged promissory note and that he and one Chandra Mohanarao are close associates and that they did real estate

business jointly and that they are having financial transactions and that during the course of the said business transactions, the defendant handed over some signed empty promissory notes, signed empty cheques and signed empty stamp papers to the said Chandra Mohanarao in the month of May, 2014, for carrying on their day to day business activities, as he was staying away from the town due to his contract works and that later, in the month of December, 2014, some differences arose between the defendant and the said Chandra Mohanarao with regard to financial transactions and that some of such disputes were only settled and that at that time, the defendant had taken back some of the signed empty promissory notes, signed empty cheques and signed empty stamp papers and that taking advantage of the custody of the remaining papers, the said Chandra Mohanarao got filed the instant suit through the plaintiff, who is his cousin, and that the suit promissory note is fabricated in the month of April, 2015 with ante-date showing as if the promissory note was executed, on 22.10.2012, and that the said fabrication of the suit promissory note is done with a view to make unlawful gain and harass the defendant. Having raised the said defence, the defendant filed the subject Interlocutory Application requesting the trial Court to send the original suit promissory note, dated 22.10.2012, to the India Security Press, Nasik, to verify and furnish an opinion/report as to the date of the release of the revenue stamp affixed on the

suit promissory note, as according too the defendant, the report/opinion, which may be furnished, would substantiate the defence of the above said defence of the defendant. Though no counter has been filed by the plaintiff, the trial Court dismissed the Interlocutory Application *inter alia* observing in the impugned order that since the defendant admitted his signature on the disputed promissory note, there is no need to send the document to the India Security Press, Nasik, for obtaining any opinion/report. Aggrieved thereof, the defendant filed this revision.”

5. Learned counsel for the petitioner submits that the trial Court committed a grave error in dismissing the unopposed Interlocutory Application merely on the ground that the defendant admitted his signature on the promissory note ignoring the vital defence of the defendant. He further submits that if the document is sent to the India Security Press and an opinion or a report is obtained from the competent officer of the said Press as to the date and/or period of issue and release of the revenue stamp, the truth will be before the Court and that such a course would help the defendant in substantiating his defence.

6. The plaintiff has not chosen to enter appearance even before this Court and is not resisting the revision petition.

7. Learned counsel for the defendant placed reliance on a decision of Punjab and Haryana Court in *Satish Kumar Narang v. Paramjeet Singh (in R.S.A.No.4677 of 2012)* in support of his contention that even in a case where signatures are admitted, the request for sending the revenue stamp in question to the India Security Press, Nasik, for ascertaining information as to the date/period of issuance and release of the revenue stamp can be entertained, as such a report, if called for from the India Security Press, would manifestly establish that the suit promissory note is fabricated with an ante-date.

8. Having regard to the facts and submissions, this Court is satisfied that valid and sufficient grounds are made out for granting the relief and that in the facts and circumstances of the case, the impugned order brooks interference.

9. In the result, the Civil Revision Petition is allowed and the impugned order is set aside. Consequently, I.A.No.1069 of 2016 in O.S.No.128 of 2015 is allowed. The trial Court is accordingly directed to send the suit promissory note to the India Security Press, Nasik, and call for a report from the competent officer of the said Press as to the date or period of issue and release of the revenue stamp affixed on the suit promissory note. However, the Court below, before calling for the report as directed shall ascertain information from the Security Press as to the amount payable for furnishing the necessary report and then direct the

defendant to deposit the said amount and expenses, if any, into Court forthwith and do the needful in the matter thereafter, on the defendant depositing the needed amount.

No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

M. SEETHARAMA MURTI, J

Date: 25.09.2018
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