

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

C.R.P.NO.803 OF 2014

ORDER:-

This revision petition is filed questioning the order, dated 11-02-2014 passed in O.S.No.653 of 2009 on the file of the court of Principal Junior Civil Judge, Kothagudem.

2. The plaintiff filed the suit for recovery of a sum of Rs.43,300/- with interest etc., Interestingly in the plaint itself, the plaintiff clearly pleaded that undated blank cheque bearing No.0117811 was issued to him. Basing on the said signed but otherwise blank cheque, the suit was filed. The defendant is contesting the suit on various grounds. He pleaded that the suit is not maintainable.

3. The matter was posted for the evidence of PW.1. At that point of time, an objection was raised that a blank cheque which is signed by the defendant cannot be marked. The court overruled the said objection. Questioning the said order, the Civil Revision Petition is filed.

4. The learned counsel for the petitioner argues that the frame of the entire suit is wrong and it cannot be filed on a blank negotiable instrument. He states that document is inadmissible in evidence and it cannot be relied upon by the court.

5. On the other hand, the learned counsel for the respondent argues that the document should be received in evidence and later depending upon the evidence adduced with regard to the said document, the court can decide whether the suit is maintainable and a decree can be passed or not.

6. Therefore, the point that arises for consideration is:-

Whether the lower court committed any error in allowing the document to be marked?

7. This court after hearing both the learned counsel notices that as per the Negotiable Instruments Act, 1881 an inchoate instrument is also valid and recognized in law. In fact, in the judgment cited in the lower court and referred to in the impugned order also, an undated cheque was relied upon. This is the judgment of this court in CCCA No.116 of 1981. In that judgment, it is clearly held that an incomplete instrument containing the signatures gives a *prima facie* authority of the holder to make or complete the said instrument for any amount. Therefore, it is clear that there is no error in the impugned order. The other pleas that are raised by the learned counsel for the petitioner are on the merits of the matter. They can be raised and urged at the time of the final hearing in the matter, but on the ground that the document is not filled up, the evidence cannot be shut out. Therefore, this court is of the opinion that there are no merits in the revision.

In that view of the matter, the Civil Revision Petition is dismissed No costs. Miscellaneous Petitions pending, if any, shall stand closed in consequence.

D.V.S.S.SOMAYAJULU,J

14-11-2018
TSNR