

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No. 300 OF 2017

ORDER:

This civil revision petition is filed by the plaintiff, under Article 227 of the Constitution of India, assailing the order dated 06.01.2017 passed in I.A.No.555 of 2016 in O.S. No.179 of 2014 on the file of the Senior Civil Judge Court, Hindupur.

2. Heard the learned counsel for both the parties.

3. Now, the point that arises for consideration is

"Whether there is any illegality, irregularity or impropriety in the impugned order?"

4. A perusal of the record reveals that the petitioner filed suit O.S. No.179 of 2014 on the file of the Senior Civil Judge Court, Hindupur, against the respondent for recovery of money basing on seven promissory notes dated 05.09.2012. During the pendency of the suit, the petitioner filed I.A.No.555 of 2016 under Order VI Rule 17 of CPC seeking amendment of the plaint. The respondent filed counter *inter alia* contending that if the petition is allowed, the same may cause prejudice to him. The trial Court, after affording reasonable opportunity to both parties, dismissed the petition. Hence, the revision.

5. At the time of filing the suit, the petitioner mentioned the date of the promissory notes as 12.09.2012. In fact, the date of the promissory notes is 05.09.2012. Due to typographical mistake in the plaint, the date is mentioned as 12.09.2012 instead of 05.09.2012.

6. The learned counsel for both the parties submitted that trial is not commenced so far. It is needless to say that the approach of the Court should be pragmatic and not pedantic while deciding application under Order VI Rule 17 of CPC, more particularly before commencement of trial. The petitioner categorically stated that due to oversight, the date of promissory notes is mentioned as 12.09.2012 instead of 05.09.2012. If the petition is dismissed, it may not be possible for the petitioner to establish his stand. Even if the petition is allowed, the same would not cause any prejudice to the respondent. The trial Court, without considering the prejudice likely to be caused to the petitioner, dismissed the petition on erroneous grounds. The reasons assigned by the trial Court are not sustainable either on facts or in law. If the impugned order is allowed to stand, it would certainly amount to miscarriage of justice.

7. Taking into consideration the facts and circumstances of the case, this Court is of the considered view that it is a fit case to allow the revision.

8. The civil revision petition is accordingly allowed, setting aside the order dated 06.01.2017 passed in I.A.No.555 of 2016. Consequently, I.A.No.555 of 2016 in O.S. No.179 of 2014 on the file of the Senior Civil Judge Court, Hindupur, is allowed permitting the petitioner to amend the plaint. Miscellaneous petitions, if any, pending in this civil revision petition shall stand closed in consequence. No costs.

T.SUNIL CHOWDARY, J.

Date: 11.12.2018
JSK