

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.1840 OF 2017

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India assailing the order dated 31.1.2017 in I.A. No.1444 of 2016 in O.S. No.1009 of 2012 on the file of the Court of Special Sessions Judge for SC/ST (PoA) Act 1989-cum-VII Additional District & Sessions Judge at L.B. Nagar, Ranga Reddy District, wherein and whereby the petition filed by the petitioner under Order XVI Rule 1(3) read with 7-A of CPC, to issue summons to the witnesses was dismissed.

2. The facts leading to filing of the present revision petition are briefly as follows: The petitioner had filed O.S.No.1009 of 2012 on the file of the Court of Special Sessions Judge for SC/ST (PoA) Act 1989-cum-VII Additional District & Sessions Judge at L.B. Nagar, Ranga Reddy District against the respondents herein for recovery of an amount of Rs.45,40,000/- with future interest. The petitioner-plaintiff examined himself as P.W.1. During the pendency of the suit, the petitioner filed the present I.A., to issue summons to the proposed witnesses. After hearing both sides, the trial Court dismissed the petition. Aggrieved by the impugned order, the petitioner preferred the present revision.

3. The learned counsel for the petitioner strenuously submitted that the trial Court failed to consider that the respondents themselves have admitted sending of notice to the Commissioner of Police. He further submitted that even if the petition is allowed, the same may not cause any prejudice to the respondents. He

further submitted that the order passed by the trial Court is not sustainable either on facts or in law. ***Per contra***, learned counsel for the respondents submitted that the *lis* involved in the suit can be adjudicated effectively without summoning the proposed witnesses and the same was considered by the trial Court in right perspective; consequently dismissed the petition. He further submitted that it is not a fit case to interfere with the well-considered order of the trial Court.

4. Now the point that arises for consideration is:

Whether there is any illegality, irregularity or impropriety in the order under revision?

5. A perusal of the record reveals that the petitioner filed O.S.No.1009 of 2012 against the respondents herein for recovery of an amount of Rs.45,40,000/-. The petitioner examined himself as P.W.1 and got marked Exs.A1 to A30. Ex.A.22 is the letter addressed by respondent No.2-defendant No.2 to the Commissioner of Police, Cyberabad. The petitioner obtained copy of Ex.A.22 letter under the Right to Information Act. The petitioner filed the petition to summon 1) the Commissioner of Police, Cyberabad and 2) B.Suresh Babu, Superintendent in the Commissioner's Office, in order to establish whether they received Ex.A.22 or not. In the counter, the respondents admitted that respondent No.2 addressed Ex.A.22 letter to the Commissioner of Police. The respondents are admitting the contents of the letter except the last two lines, which read as follows: "*But if you can give me a time of 1 yr I will definitely arrange for payments*".

6. The contention of learned counsel for the respondents is that the last two lines are fabricated by the petitioner in connivance with the Police. As rightly pointed out by the learned counsel for the respondents, the plaintiff has to establish his case. Whether the last two lines of Ex.A.22 are genuine or fabricated by the petitioner, as contended by the respondents invariably, requires examination of proposed witnesses. The testimony of proposed witnesses will throw some light on the controversy involved in the suit. Even if Sri B.Suresh Babu, Superintendent is summoned as witness, no prejudice will be caused to the respondents. However, as regards the Commissioner of Police, the request of the petitioner cannot be considered as he is nothing to do with the tappals received in the Office. Viewed from any angle, there is no need to call for the Commissioner of Police as witnesses.

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

8. In the result, the civil revision petition is allowed in part, setting aside the order dated 31.1.2017 in I.A. No.1444 of 2016 in O.S. No.1009 of 2012 on the file of the Court of Special Sessions Judge for SC/ST (PoA) Act 1989-cum-VII Additional District & Sessions Judge at L.B. Nagar, Ranga Reddy District. Consequently, the I.A.No.1444 of 2016 is allowed in part, as indicated above. The trial Court is hereby directed to issue summons to Sri B.Suresh Babu, Superintendent to examine him as witness on payment of necessary batta by the petitioner.

Miscellaneous petitions if any pending in this revision petition shall stand closed.

T.SUNIL CHOWDARY, J.

Date: 13.6.2018
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