

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.5332 of 2018

ORDER:

Heard the learned counsel for the petitioner and Sri A.K.Kishore Reddy, learned counsel for the respondents.

2. This Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.23-07-2018 in I.A.No.853 of 2018 in O.S.No.98 of 2016 of the Senior Civil Judge, Pithapuram.

3. Petitioner is the plaintiff in the suit. He filed the suit against the respondent on the basis of a promissory note for recovery of money.

4. Written Statement was filed by the respondent taking a plea that she had earlier borrowed amount of Rs.20,000/- from the petitioner and at that time, petitioner had obtained signatures on several blank promissory notes, and after discharge of the said amount, petitioner had returned only few of the blank promissory notes, and thereafter fabricated the suit promissory note or might have forged it.

5. At the time of cross examination of P.W.1 by her counsel, the respondent filed I.A.No.853 of 2018 under Order 8 Rule 9 CPC to receive an additional Written Statement. In the affidavit filed in support of the said application, she stated that she did

not borrow any amount from the petitioner by executing the suit promissory note; when she was called by her counsel to give instructions for cross examination of P.W.1, she informed her counsel that the petitioner is doing money lending business and herself and her husband also had borrowed amounts from the petitioner. She stated that these facts were not informed to the counsel earlier and so she was advised to file additional Written Statement taking the said plea as P.W.1 can be cross examined on those aspects also.

6. Counter affidavit was filed by the petitioner opposing the same. He contended that the pleadings raised therein are totally new and change the nature of contest.

7. By order dt.23-07-2018, the Court below allowed the said application. After referring to the pleadings of the respondents in the original Written Statement and in the additional Written Statement, it held that the pleas in the additional Written Statement are not changing the nature of defence taken by the respondent and would not cause any prejudice to the petitioner since by speaking about the previous transactions between them, the respondent placed the burden upon herself to prove the same. The Court also held that the application has been filed when the matter is coming for cross examination of P.W.1, and it was filed at an appropriate stage. It also relied on the judgment of this Court in **B.Mohammed Haneef Vs. S.Mali Basha**¹ and held that the additional Written Statement filed by

¹ 2018 (1) ALT 469

the respondent can be received subject to payment of costs of Rs.500/- to the petitioner.

8. Assailing the same, this Revision Petition is filed.

9. Sri S.Subbareddy, learned counsel for the petitioner, contended that the order passed by the Court below cannot be sustained, that it suffers from an error of jurisdiction since the Court below could not have permitted the filing of additional Written Statement which contains allegations inconsistent to original Written Statement at the stage of cross examination of P.W.1. Reference is also made to Order 6 Rule 17 CPC.

10. Sri A.K. Kishore Reddy, learned counsel, appearing for respondents, supported the order passed by the Court below.

11. I have perused the contentions raised by the respondent in the original Written Statement and also in the additional Written Statement.

12. In both these documents, respondent has taken a plea that blank signed promissory notes were taken by the petitioner from her on the basis of which suit promissory note might have been fabricated. No doubt there is reference in the additional Written Statement to prior transactions which allegedly took place between the parties which were not referred to in the original Written Statement. But there is no plea inconsistent with the original Written Statement. I agree with the reason given by the respondent that having the

additional Written Statement on record would facilitate her counsel to cross examine P.W.1 with regard to those transactions also, I am of the opinion that no error of jurisdiction has been committed by the Court below in allowing the respondent to file the additional Written Statement.

13. Accordingly, the Civil Revision Petition is dismissed.
No costs.

14. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

Date: 24-10-2018
kvr

JUSTICE M.S.RAMACHANDRA RAO

