

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.6886 of 2018

ORDER:

This civil revision petition, under Article 227 of the Constitution of India, is filed by the unsuccessful petitioner/defendant assailing the docket order, dated 27.02.2018, of the learned I Additional District Judge, Nellore, passed in IA.no.1056 of 2017 in OS.no.194 of 2015.

2. I have heard the submissions of Smt *K.Pallavi*, learned counsel appearing for the revision petitioner/defendant at the stage of admission. I have perused the material record.

3. Since this Court is inclined to dispose of the revision at the stage of admission, no notice is ordered to the respondent/plaintiff.

4. From the submissions made and the material record, the following facts are discernible:

The plaintiff filed a suit against the defendant for recovery of money in a total sum of Rs.62,69,120/- on the basis of promissory notes for Rs.35,00,000/- and Rs.18,00,000/-. The defendant is resisting the suit. During the pendency of the suit, the defendant filed the afore-mentioned interlocutory application requesting the trial Court to send the documents with the disputed signatures along with the documents containing the standard/admitted signatures of the defendant to a Handwriting Expert for comparison of the disputed signatures and admitted/standard signatures and furnishing an opinion. By orders, dated 14.02.2018, the trial Court allowed the said application subject to deposit of Rs.5,000/- by the defendant on or before 27.02.2018 to the credit of the suit and

further directed the defendant to produce material, which is contemporaneous, containing the signatures of the defendant, if any, for sending the same along with the disputed documents to a Handwriting Expert. Admittedly, the defendant failed to make the deposit within the time mentioned in the said orders. Therefore, the consequential order, which is now impugned in this revision, has come to be passed. Aggrieved thereof, the defendant preferred this revision.'

5. Having given earnest consideration to the facts and submissions, this Court is of the considered view that the defendant ought to have filed two applications before the trial Court itself requesting for extension of time and restoration of IA.no.1056 of 2017 by setting aside the docket order, which is now impugned in this revision. Had the defendant filed those applications, the trial Court would have considered the same and might have passed appropriate orders after giving an opportunity to the plaintiff to file counters, if any. In that view of the matter, this Court is of the considered view that this revision can be disposed of at the stage of admission with appropriate directions.

6. Accordingly, the Civil Revision Petition is disposed of reserving liberty to the petitioner/defendant to file appropriate interlocutory applications before the trial Court, one for extension of time and the other for setting aside the docket order, dated 27.02.2018, passed in IA.no.1056 of 2017 and restore IA.no.1056 of 2017 and afford an opportunity to the petitioner/defendant to make the deposit, as stated in the orders, dated 14.02.2018, of the trial Court. It is made clear that in the event the defendant files the said applications within two (02) weeks from the date of receipt of a copy of this order, the

trial Court shall, after affording an opportunity to the respondent/plaintiff to file counters, dispose of the said applications, by following the procedure established by law.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

M.SEETHARAMA MURTI, J

Date: 26th November, 2018

Note: Issue C.C. in two (02) days.

(B/o.)
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THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**CIVIL REVISION PETITION No.6886 of 2018**Date: 26th November, 2018

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