

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition No.6116 of 2017

Order:

Aggrieved by the dismissal of his application under Order VIII, Rule 9 CPC for filing an additional written statement, the defendant has come up with the above civil revision petition.

2. Heard Mr. Ponnada Sree Vyas, learned counsel for the petitioner and Mr. Rizwan Ali Shaik, learned counsel for the respondent.

3. The suit was filed for recovery of money based upon a promissory note. The defence was one of total denial. The petitioner denied having borrowed any money and having executed any promissory note.

4. But in the additional written statement, the petitioner /defendant seeks to explain the circumstances under which he executed one promissory note. In other words, in the additional written statement, the signature in the promissory note is perhaps admitted, to the advantage of the plaintiff. Therefore, the plaintiff need not object to the filing of the additional written statement.

5. The Court below proceeded on the wrong presumption that what is sought to be pleaded in the additional written statement is what happened subsequent to the institution of the suit. It is not so. The suit was instituted in August, 2015. The event sought to be pleaded in the

additional written statement is dated 06-3-2015. Therefore, the entire premise on which the application was dismissed, is wrong. Hence, the civil revision petition is allowed, the impugned order is set aside and the application for filing additional written statement is allowed. The miscellaneous petitions, if any, pending in this revision shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

16th February, 2018.
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