

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.7322 OF 2017

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the order dated 05.12.2016 passed in I.A.No.976 of 2016 in O.S.No.1589 of 2013 on the file of the Court of VI Additional Senior Civil Judge, Visakhapatnam.

2. Heard the learned counsel for the petitioner.

3. A perusal of the record reveals that the respondent filed O.S.No.1589 of 2013 on the file of the Court of VI Additional Senior Civil Judge, Visakhapatnam, for recovery of the suit amount from the petitioner basing on the promissory note. After closure of the respondent/plaintiff's side evidence, the matter was posted for petitioner/defendant's side evidence. At that stage, the petitioner filed I.A.No.976 of 2016, under Section 151 C.P.C., to reopen the plaintiff's side evidence for further cross-examination of PW.1. The trial Court, after affording a reasonable opportunity to both parties, dismissed the petition. Hence, the revision.

4. A perusal of the record reveals that the petitioner cross-examined PW.1. Except the respondent (plaintiff), no one was examined on his behalf. It is the case of the petitioner that the respondent filed C.C.No.72 of 2015 against him under Section 138 of the Negotiable Instruments Act. The learned V Special Magistrate, Visakhapatnam, dismissed the complaint filed by the respondent on 30.09.2016, acquitting the petitioner. The petitioner filed the interlocutory application in order to reopen the

evidence of PW.1 for further cross-examination with regard to dismissal of the complaint filed by him.

5. It is needless to say that the petitioner, who is the defendant in the main suit, is a competent person to speak about the dismissal of C.C.No.72 of 2015. I have carefully perused the affidavit filed by the petitioner before the trial Court. A perusal of the same reveals that the petitioner did not assign reasons much less cogent and valid reasons to reopen the evidence on plaintiff's side for further cross-examination of PW.1, except to prove the dismissal of C.C.No.72 of 2015. In order to prove the said fact, there is no need to recall PW.1. The trial Court made an observation that even without recalling PW.1, the petitioner can prove the dismissal of C.C.No.72 of 2015. The trial Court has assigned reasons much less cogent and valid reasons while dismissing the petition. I am fully agreeing with the findings recorded by the trial Court. There is no illegality or irregularity in the impugned order warranting interference of this Court while exercising the jurisdiction under Article 227 of the Constitution of India.

6. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs.

7. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 20.07.2018
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