

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

C.R.P. No.564 OF 2019

ORDER: *(Per Hon'ble Sri Justice V. Ramasubramanian)*

Aggrieved by the rejection of an application with a very strange prayer, the defendants in a suit for recovery of money have come up with the above Civil Revision Petition.

2. Heard Ms. A. Satyasiri, learned counsel for the petitioners. Mr. A. Venkatesh, learned counsel, takes notice for the respondent.

3. The respondent filed a suit for recovery of money against the petitioners. A written statement was supposedly filed by the 1st defendant.

4. Thereafter, the Court below framed the issues and the evidence on the side of the plaintiff was completed. The 1st defendant went to the witness box first and filed an affidavit in lieu of chief-examination. In the course of cross-examination of DW.1, a suggestion appears to have been put to the 1st defendant by the counsel for the plaintiff as to whether the signature contained in the written statement was his signature. At that stage, the defendants moved an application in IASR No.7331 of 2018 seeking permission to withdraw the earlier written statement and to file a fresh written statement. This was on the ground that the signature contained in the written statement was not that of the 1st defendant and that even the counsel for the 1st defendant had not signed the same. But, the Court below rejected the said application as

not maintainable forcing the defendants to come up with the above revision.

5. At the outset, it should be pointed that there is no provision for withdrawing a written statement and for filing a fresh written statement. While there are provisions for filing of additional written statement as well as amendment of pleadings, the question of withdrawing a written statement as such does not arise. As a matter of fact, the well-settled principle of law is that though a party may be allowed to approbate and reprobate, he may not be permitted to withdraw any admissions made by him in the pleadings.

6. Moreover, this is a case where the 1st defendant went to the witness box and examined himself as DW.1 and filed an affidavit in lieu of chief-examination. Today he cannot claim that he should be permitted to withdraw the written statement said to have been filed in his name.

7. In any case, if a pleading has been filed into the Court which is not signed by the party concerned, the question of allowing that party to withdraw what was not filed by him does not arise. Therefore, the trial Court was right in rejecting the application as not maintainable. Though it is true that the Court could have numbered the application and then rejected it, the ultimate outcome would not have been different if the application had been numbered.

8. Therefore, the Civil Revision Petition is devoid of merits and hence it is dismissed. However, in the circumstances of the case, there shall be no order as to costs.

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

V. RAMASUBRAMANIAN, J

ABHINAND KUMAR SHAVILI, J

March 11, 2019

Mgr

