

THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

CRP. No.4499 of 2018

ORDER:

This Revision petition is filed under Article 227 of the Constitution of India challenging the order dt. 26.04.2018 passed in I.A. No.75 of 2018 in O.S. No.90 of 2016 of the Junior Civil Judge, Nidamanoor.

2. The petitioner herein is the defendant in the said suit. The respondent filed the said suit against the petitioner for recovery of the suit amount on the basis of a promissory note.

3. Written statement was filed by the petitioner contending that the respondent is a money lender doing money lending business without any valid licence under the A.P. (Telangana Area) Money Lenders Act, 1349 Fasli, and also contending that the respondent is running chits business without any licence and registration.

4. At this stage when the evidence was to start, I.A. No.75 of 2018 was filed by the petitioner seeking amendment of the written statement to add the following sentences in it (i.e):

“The plaintiff and her husband namely Gaddam Koti Reddy, her daughter have been doing money lending business since a long time without having valid license on high rate of interest. They have been lending amounts on high rate of interest to number of persons as their profession and on that income only they have been living”.

5. In the affidavit, filed in support of this application, it is stated that these sentences were omitted in the original written statement and it is required to be placed on record that the respondent's husband as well as the daughter also were doing the money lending business without any valid licence.

6. Counter affidavit was filed by the respondent opposing the said application stating that the application was filed only to drag on the proceedings with dishonest intention.

7. By order dated 26.04.2018, the Court below dismissed the said application holding that the affidavit filed in support of the I.A. No.75 of 2018, did not disclose as to how the proposed amendment is required for determining the real question in controversy in the suit; that trial had already been commenced, and P.Ws.1 and 2 were examined by the respondent, and at the stage, leading of evidence by the petitioner, this application has been filed along with I.A. No.27 of 2018 to file certain documents. It held that by the time of filing of written statement itself the petitioner was having knowledge about the cases said to have been filed by the husband of the respondent. It also observed that in the written statement the petitioner had already alleged that the respondent was doing money lending business and the promissory note was forged and fabricated one and an issue had already been framed regarding money lending business of the respondent/plaintiff.

8. The counsel for the petitioner contend that the petitioner ought to have been permitted to amend written statement for including the proposed pleading that the husband of the respondent and her daughter are also doing

money lending business without any valid licence and for high rate of interest.

9. I am of the opinion that there is already a pleading about the respondent doing money lending business without valid licence and an issue had already been framed in that regard. Therefore, there was no necessity to permit the amendment with regard to the business activities of the husband of the respondent and her daughter.

10. In I.A. No.27 of 2018, documents were sought to be filed by the petitioner showing the criminal and civil cases filed by the husband of the respondent and all those documents were related for the period of prior to the suit. Therefore, the petitioner should have mentioned in the written statement itself when it was filed in original that the husband of the respondent and daughter of the respondent were also doing money lending business.

11. There is then no due diligence on the part of the petitioner and under the proviso Order VI Rule 17 of CPC the petitioner therefore, cannot be allowed to amend the written statement at this stage.

12. Therefore, I do not find any error of jurisdiction in the order passed by the Court below in refusing to permit the petitioner to amend the written statement. Therefore, this Revision petition fails and is accordingly, dismissed.

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

10. As a sequel, miscellaneous applications, if any, pending shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date: 08.03.2019.
LSK

