IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

MONDAY,THE EIGHTH DAY OF JUNE
TWO THOUSAND AND TWENTY

PRESENT

THE HONOURABLE DR. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION NO: 2932 OF 2018

Petition under Article 227 of the Constitution of India, aggrieved by the order dated 04-04-2018 in IA.No.350 of 2018 in OS.No.194 of 2012,on the file of the I Additional Chief Judge, City Civil Court, Secunderabad

Between:

Sri Ambica Sudershan, S/o Sri veera Venkata Pothu Krishna Rao Peria, Aged about 43 years, Occ- Business, R/o Flat No 496, Block D-1, Brindavan Apartments, Jubilee Hills, Road No 87, Hyderabad - 500 064.

...PETITIONER/RESPONDENT NO 3/D3

AND

1. M/S.Gowra Leasing And Finance Ltd, Having its regd / Corp Office at 501, 5th Floor, gowra Grand, 1-8-384 and 385, S.P. Road, Begumpet Road, Secunderabad, rep by its Authorized representative cum Recovery Officer Sri L.Vinod, S/o L.Venkatesham, aged about 59 Years.

.....RESPONDENT/PETITIONER PLAINTIFF

2. M/s Trinethra Infra Ventures Ltd.,, Haing Office at 210, Aditya Trade Centre, 2nd Floor, Ameerpet, Hyderabad-500 016, Rep by its Managing Director, VVRL Narasimha Prasad Pasumarthy.

3. Mr. M. Narasimha Rao,, Flat No 401, Sri Durga Harmony, H.No. 6-3-552/1, Erramanzil Colony, Hyderabad - 500 082.
(respondent No 2 & 3 Not Necessary Parties Vide C.T.)

...RESPONDENTS/RESPONDENTS 1 & 2

IA NO: 1 OF 2018 Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased To grant interim stay of all further proceedings in OS.No.194/2012 on the file of the I Additional Chief Judge, City Civil Court, Secunderabad, pending disposal of the CRP

Counsel for the Petitioner: SRI V.RAVICHANDRAN SENIOR COUNSAL APPEARING FOR SRI PARSA ANANTH NAGESWAR RAO

Counsel for the Respondent: NO 1 SRI K K WAGHRAY

The Court made the following: ORDER

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.2932 of 2018

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/defendant No.3, challenging the order, dated 04.04.2018, passed in I.A.No.350 of 2018 in O.S.No.194 of 2012 by the I Additional Chief Judge, City Civil Court, at Secunderabad, whereby, the subject Interlocutory Application filed by the respondent No.1/plaintiff under Order VII Rule 14(3) read with Section 151 of Code of Civil Procedure, 1908 (CPC) to permit the respondent No.1/plaintiff to file letters dated 05.10.2011, 31.01.2012, cheque return memo dated 31.03.2012 and the certificate dated 26.10.2017, was allowed.

2. Heard Sri V.Ravichandran, learned Senior Counsel appearing for Sri Parsa Anantha Nageswar Rao, learned counsel for petitioner/ defendant No.3, Sri K.K.Waghrey, learned counsel for the respondent No.1/plaintiff and perused the record.

3. Sri V.Ravichandran, learned Senior Counsel for the revision petitioner/defendant No.3 would contend that though the letters dated 05.10.2011, 31.01.2012 and the cheque return memo dated 31.03.2012 existed much prior to filing of the subject suit, the respondent No.1/plaintiff has filed those documents belatedly without assigning proper explanation. The Court below erroneously allowed the subject Interlocutory Application and ultimately prayed to set aside the order under challenge and allow the Civil Revision Petition as prayed for.

4. On the other hand, Sri K.K.Waghrey, learned counsel for the respondent No.1/plaintiff would contend that the proposed documents are necessary for proper and effective adjudication of the subject matter of the suit, which is filed for recovery of money. The Court below is justified in allowing the subject Interlocutory Application. There is no material illegality in the order under challenge and ultimately prayed to sustain the order under challenge and dismiss the Civil Revision Petition.

5. In view of the above rival contentions, the point that arises for determination in this Civil Revision Petition is as follows:

> ***"Whether the impugned order, dated 04.04.2018, passed in I.A.No.350 of 2018 in O.S.No.194 of 2012 by the I Additional Chief Judge, City Civil Court, at Secunderabad, is liable to be set aside?"***

6. **POINT:** As seen from the material placed on record, the subject suit in O.S.No.194 of 2012 is filed by the respondent No.1/plaintiff for recovery of an amount of Rs.62,56,581/- from the respondents 2 and 3 herein/defendants 1 and 2 and petitioner herein/defendant No.3. It is the specific case of the respondent No.1/plaintiff that towards discharge of liability of the defendant No.1, the defendant No.3 being the guarantor, issued subject cheque bearing No.377491 dated 10.10.2011 drawn on Karnataka Bank Ltd., Rajbhavan Road Branch, for Rs.53,37,500/- to the plaintiff and on presentation of the said cheque, it was dishonoured. The respondent No.1/plaintiff has filed the subject I.A.No.350 of 2018 seeking permission to file the letters dated 05.10.2011, 31.01.2012, cheque return memo dated 31.03.2012

and the certificate dated 26.10.2017. The Court below vide impugned order dated 04.04.2018, allowed the subject I.A.No.350 of 2018. The contention of the revision petitioner/defendant No.3 is that the documents in question were filed belatedly without assigning proper explanation and hence they cannot be received in evidence.

7. It is apt and appropriate to refer the decision in ***Lukka Srinivasa Rao @ Venkateshwarlu v. Lukka Shivaiah***[1], wherein it was held thus:

> *"It is often said that procedure is the handmaid of justice. It is also said that procedural and technical hurdles shall not come in the way of the Court for doing substantial justice. Where procedural violations cause serious prejudice to the adversary party, the Courts need to view such violations seriously and uphold the objection(s) of the adversary party to prevent causing of such prejudice to it. In contrast, if such procedural violations do not lead to such result, the Courts must lean towards doing substantial justice rather than relying upon procedural and technical violations.*
>
> *Applying these settled legal principles to the present case, it is no doubt true that, as per the law that could be culled out from the precedents, the party who wants to produce the documents at a later stage of the suit proceedings, must satisfy the Court with convincing reasons that he was prevented by sufficient cause from producing the same earlier. However, in cases where such explanation is not effectively put forth and if the Court is convinced that the documents which are sought to be produced are essential for proper and effectual adjudication of the dispute and production of such documents at a belated stage would not prejudice the adversary party, it must overlook the failure of the party in putting forth convincing reasons."*

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[1] 2016 (1) ALT 36

In the instant case, the reason assigned by the respondent No.1/plaintiff for filing the letters dated 05.10.2011, 31.01.2012 and the cheque return memo dated 31.03.2012 belatedly is that the said letters and cheque return memo were mixed up with the other papers in the office of the respondent No.1/plaintiff and they were traced out recently. So far as regarding the certificate dated 26.10.2017 is concerned, it is stated that the said certificate was obtained recently regarding the dishonor of cheque bearing No.377491 on 31.03.2012. In view of the facts and circumstances of the case, the above documents, which relate to the cheque bearing No.377491 dated 10.10.2011 drawn on Karnataka Bank Ltd., Rajbhavan Road Branch, are necessary for effective and complete adjudication of the subject matter of the suit, which is filed for recovery of money. Therefore, the Court below is justified in passing the impugned order. The Civil Revision Petition is devoid of merits and is liable to be dismissed.

8. Accordingly, the Civil Revision Petition is dismissed. No order as to costs.

Miscellaneous petitions, if any, pending in this revision petition shall stand closed.

Sd/-K.SAILESHI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The I Additional Chief Judge, City Civil Court, Secunderabad
2. One CC to SRI. PARSA ANANTH NAGESWAR RAO Advocate [OPUC]
3. One CC to SRI K K WAGHRAY Advocate [OPUC]
4. Two CD Copies

HIGH COURT
DATED:08/06/2020



ORDER
CRP.No.2932 of 2018

DISMISSING THE CIVIL REVISION PETITION WITHOUT COSTS

5 copies
dt 15/6/2020