

HONOURABLE SRI JUSTICE A.SANTHOSH REDDY

CIVIL REVISION PETITION Nos. 6289, 6312 and 6319 of 2018

COMMON ORDER:

C.R.P.No.6289 of 2018 is filed under Article 227 of the Constitution of India to set aside the order, dated 19.09.2018 in I.A.No.1591 of 2018 in O.S.No.115 of 2013 on the file of II Additional Chief Judge, City Civil Court, Hyderabad.

C.R.P.No.6312 of 2018 is filed under Article 227 of the Constitution of India to set aside the order, dated 19.09.2018 in I.A.No.1592 of 2018 in O.S.No.115 of 2013 on the file of II Additional Chief Judge, City Civil Court, Hyderabad.

C.R.P.No.6319 of 2018 is filed under Article 227 of the Constitution of India to set aside the order, dated 19.09.2018 in I.A.No.1593 of 2018 in O.S.No.115 of 2013 on the file of II Additional Chief Judge, City Civil Court, Hyderabad.

2. Since both the petitioner and the respondent are one and the same in all the revisions and they arise out of the same suit, these civil revision petitions are disposed of by this common order.

3. Heard learned counsel for the petitioner and the learned counsel for the respondent. Perused the record.

4. The petitioner-plaintiff filed suit in O.S.No.115 of 2013 against the respondent-defendant for recovery of money based on promissory note and cheque allegedly issued by him. While so, during the trial, the petitioner filed three applications viz., I.A.No.1591 of 2018 under Order VII Rule 14 (3) read with Section 151 of the Code of Civil Procedure, 1908 (for short “C.P.C.”) to receive the documents, I.A.No.1592 of 2018 under Order XVIII Rule 17 of C.P.C. to recall PW.1 for marking the documents i.e. certified copy of sale deed, the statement of account issued by L.I.C., letters issued by Income Tax Department, TDS, bank passbook, newspaper dated 27.10.2013 and I.A.No.1593 of 2018 under Section 151 of C.P.C. to reopen the evidence of PW.1.

5. The respondent resisted the same by denying the allegations stating that the proposed documents are filed to cover the latches and there is no whisper about the same in the suit.

6. On a consideration of the material on record, the trial Court dismissed all the applications vide order dated 19.09.2018 stating

that the petitioner has failed to explain reasons for non-filing of the same at the time of filing of suit and failed to explain how the subject documents are relevant for disposal of the suit. Challenging the same, the present revisions are preferred.

7. A perusal of the material on record would disclose that in the main suit filed by the petitioner for recovery of money, the evidence on petitioner's side was completed and at that stage, the present three applications are filed to receive the documents. In the affidavits filed in support of said applications, the petitioner stated that while, he was searching for LIC records, he has found some documents pertaining to the suit. They are very relevant and crucial to prove his case. As such, he has filed the applications to receive, recall PW.1 and reopen the evidence of PW.1 respectively.

8. On the other hand, the respondent in his counter affidavit resisted the filing of the subject documents stating that the affidavit averments do not whisper with regard to the nexus of the same with the present suit. As such, the applications are liable to be dismissed.

9. Order VII Rule 14 (3) C.P.C. mandates that a document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

10. In the present suit, as per the averments of the affidavits filed in support of the applications, the subject documents proposed to be received in evidence were traced out, while the petitioner was searching for L.I.C records. The trial Court has examined each and every document and stated that except the statement of account issued by the L.I.C employees Co-operative Credit Society, Hyderabad, all the other documents are computer generated copies, which did not contain any certificate under Section 65 B of the Indian Evidence Act, 1872 and they do not also bear the signatures of anybody. The other document is only bank passbook and paper publication. The relevancy of the subject documents for adjudication of the suit is not at all mentioned in the accompanying affidavit of the present application. Since the petitioner failed to

assign any valid reasons about the relevancy of the subject documents as to why they have not been produced along with the plaint, when they are very much in his possession and which are supposed to be entered in list of documents, the trial Court has rightly refused to receive the same and dismissed the application. Consequently, the applications filed to recall and reopen the evidence on behalf of the petitioner were also dismissed. Apart from this, since the evidence of PW.1 was already closed as contended by the respondents, it is not proper to receive the documents at this stage.

11. For the foregoing reasons, I am of the considered view that the impugned order does not suffer from any infirmity or illegality warrants interference under Article 227 of the Constitution of India.

12. In the result, the civil revision petitions are dismissed. There shall be no order as to the costs. Pending miscellaneous applications, if any, shall stand closed.

A.SANTHOSH REDDY,J

24.02.2023

Nvl

