

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

THE HON'BLE SRI JUSTICE B KRISHNA MOHAN

CIVIL REVISION PETITION No.1038 of 2023

Between:

Yerram Amarnath Reddy,
S/o. Y. Jayarami Reddy,
Aged about 65 years,
Occ: Retired Employee,
R/o H.No.87/574, Madavanagar,
B Camp Post, Kurnool Town
And District, Andhra Pradesh.

....Petitioners

And

Katamreddy Kishore Kumar Reddy,
S/o. K. Janardhan Reddy,
Aged about 38 years, Occ: Software
Employee, R/o H.No.28/809/B, NGO's
Colony, Nandyal Town and Mandal,
Nandyal District (Earlier Kurnool
District), Andhra Pradesh.

....Respondents

ORDER:

Heard the learned counsel for the petitioner and the
learned counsel for the respondent.

2. This revision petition is filed against the order passed in
I.A.No.15 of 2023 in O.s.No.35 of 2021 on the file of the
Principal Senior Civil Judge, Nandyal, dated 20.02.2023 in
dismissing the I.A filed under Order XVI Rules 1 and 6 r/w
Section 151 C.P.C, to summon the Bank Managers of the

petition schedule for giving evidence regarding payments made by the petitioner/defendant through R.T.G.S to the account of the mother of the respondent/plaintiff's account with the production of the account extract.

3. The learned counsel for the petitioner submits that the petitioner is the defendant and the respondent is the plaintiff in the suit. Suit is for recovery of money basing upon the documents of Ex.A.1 and Ex.A.2. During the pendency of the suit, at the stage of examination of the defendant's evidence, the above said I.A was filed for the above said purpose. The contention of the defendant is that if these three remittances made in favour of the plaintiff's mother, are taken into consideration, the dues under Ex.A.1 and Ex.A.2 would be remained as zero balance. However, without filing the statement of account, the above said I.A was filed by the petitioner/defendant before the trial court. Trial court heard the matter on merits and dismissed the I.A on the ground that the statement of account is not furnished along with this I.A. However, the learned counsel for the petitioner submits that the trial court also went into the merits of the main case which may prejudice the petitioner/defendant in the main suit itself.

4. On the other hand, the learned counsel appearing for respondent/plaintiff submits that in the deposition of the defendant/DW.1, he admitted that there are three different suits filed by the plaintiff herein and as well as their parents separately. Any amount transferred in the name of the mother of the respondent that cannot be taken into consideration in this suit.

5. In view of the above said facts and circumstances, since the petitioner has not filed statement of account to show the transactions of remittances in favour of the respondent's mother by the petitioner during the year 2020, he ought to have simply obtained the statement of account from the concerned bank and filed the same during the course of evidence and instead filed the above said I.A. Though the trial court rightly observed that this I.A. is not accompanied by the said statement of account, however, discussed the merits of the main suit also and dismissed the suit. Since the observation of the trial court is right with respect to the non-filing of the statement of account along with the said I.A, the same could not be allowed and the order of the trial court in dismissing the I.A is justified but the trial court ought not to have gone into the merits of the main suit.

6. For the foregoing reasons, the petitioner is given a final opportunity to obtain the statement of account for the year 2020 from the bank concerned in order to rely upon the remittances made on 06.06.2020, 09.06.2020 and 15.06.2020, by filing necessary application before the court below within a period of two (02) weeks from the date of receipt of this order, on filing of the same, it shall be decided by the trial court independently without reference to the order passed in I.A.No.15 of 2023 in O.S.No.35 of 2021 dated 20.02.2023. The trial court shall dispose of the I.A as well as the main suit as expeditiously as possible, strictly in accordance with law, for which both the parties shall co-operate with the trial court. For the purpose of proving the bank transactions, no officer of the bank need be summoned to the Court.

7. Accordingly, the civil revision petition is disposed of. No costs.

As a sequel, Miscellaneous Petitions pending, if any, shall stand closed.

JUSTICE B KRISHNA MOHAN

29.09.2023
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Dt.29.09.2023

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