



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3311]

**FRIDAY, THE TWENTY THIRD DAY OF AUGUST
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE MS JUSTICE B S BHANUMATHI

CIVIL REVISION PETITION Nos.1960 & 1961/2023

Between:

Namburi Ram Prasad,

...PETITIONER

AND

Karicherla Venkateswara Rao

...RESPONDENT

Counsel for the Petitioner:

1. ELURU SESA MAHESH BABU

Counsel for the Respondent:

None

The Court made the following:

HON'BLE Ms. JUSTICE B.S.BHANUMATHI**Civil Revision Petition No.1960 & 1961 of 2023****COMMON ORDER:-**

These two revisions by the defendant are directed against the orders, dated 27.06.2023, dismissing I.A.Nos.240 of 2023 and 241 of 2023 in O.S.No.2138 of 2019 on the file of the Court of V Additional Junior Civil Judge, Vijayawada.

a. I.A.No.240 of 2023 is filed under Section 151 CPC to reopen the suit on the side of the respondent/plaintiff, whereas I.A.No.241 of 2023 is filed to recall PW3, G. V. Pydeswara Rao, for the purpose of further cross-examination.

b. Since both the petitions are interconnected and arise out of the same suit and the parties are one and the same, common order is being passed.

2. The plaintiff filed a suit for the recovery of amount based on a promissory note. The defendant opposed the suit by filing a written statement, pleading that the scribe of the promissory note had advanced a loan of Rs.2,02,341/- of Canara Bank, Venkateswarapuram branch, Vijayawada, and the same was discharged on 19.08.2018, on the condition that the petitioner would provide a blank signed promissory note to the scribe, which was later used to file the suit. Therefore, the petitioner in order to prove the same,

examined the Manager of the said bank as DW3 and filed the payment slip as Exhibit B4, along with the pay slip of PW3, the scribe. In this context, the petitioner seeks to reopen the matter and recall PW3 for the purpose of further cross-examination.

3. The respondent/plaintiff opposed the petitions.

4. After hearing both sides, the trial court dismissed both the petitions, observing that PW3 had already been cross-examined in detail. During the cross-examination, PW3 stated that the defendant used to take hand loans of ₹10,000 or ₹5,000, which were subsequently repaid. He also asserted that the defendant was not indebted to him and denied any existing transaction between the plaintiff and the defendant dated 14.04.2017. The trial court felt that it would not be appropriate at this stage to recall PW3 for further cross-examination.

5. Aggrieved by the same, these revision petitions are filed.

6. Heard the learned counsel for the petitioner. The notice sent to the respondent was returned un-served with an endorsement "addressee left without instructions." The service of notice to the respondent is deemed sufficient.

7. The learned counsel for the petitioner submits that the respondent is aware of the pendency of the matter before this Court as a memo was filed

before the trial court reporting the interim stay in the revision before this Court, which has been extended from time to time. This aspect was also referred to in the docket and can be seen from the e-Courts website. Under these circumstances, this Court proceeded with hearing of the matter.

8. Since during the examination of PW3, there has been no occasion for the petitioner to further cross-examine him regarding the document marked as exhibit B4, it is just and necessary to provide the petitioner an opportunity to elicit evidence concerning exhibit B4 by recalling PW3. Without examining this necessity, the trial court erroneously dismissed the petitions merely on the basis of the cross-examination was conducted prior to filing of exhibit B4. Therefore, it is evident that the trial court failed to exercise its jurisdiction properly, and the impugned orders need to be interfered with.

9. Accordingly, both the revision petitions are allowed setting aside the orders, dated 27.06.2023, passed by V Additional Junior Civil Judge, Vijayawada, in I.A.Nos.240 of 2023 and 241 of 2023 in O.S.No.2138 of 2019. As a sequel, I.A.Nos.240 & 241 of 2023 are allowed. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand dismissed.

B.S.BHANUMATHI, J

Date:23.08.2024
klk

THE HON'BLE Ms. JUSTICE B.S.BHANUMATHI

Civil Revision Petition Nos.1960 & 1961 of 2023

DATED: 23-08-2024

klk