
(2014) 07 AP CK 0020

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 2041 of 2014

S. Harshavardhan Reddy

APPELLANT

Vs

Vemula Ram Reddy

RESPONDENT

Date of Decision : 15-07-2014

Acts Referred:

Evidence Act, 1872 — Section 45

Citation : (2014) 6 ALD 114 : (2015) 1 ALT 306

Hon'ble Judges : C.V. Nagarjuna Reddy, J

Bench : Single Bench

Advocate : M. Rajamalla Reddy, Advocate for the Appellant

Final Decision : Dismissed

Judgement

C.V. Nagarjuna Reddy, J.—This Civil Revision Petition arises out of order dated 10-6-2014 in I.A. No. 1075 of 2013 in O.S. No. 633 of 2007 on the file of the learned IV Additional District Judge, Ranga Reddy District, at L.B. Nagar.

2. The petitioner filed the above mentioned suit for specific performance of agreement of sale. The respondent filed a written statement wherein he has admitted the execution of agreement of sale and also receipt of monies under Exs. A-3 to A-5. However, the respondent has specifically denied receipt of Rs. 15 lakhs on 31-10-2013 in respect of which the petitioner has filed the receipt marked as Ex. A-2. The petitioner has let in oral evidence and after closure of the evidence on his side, the evidence of the respondent/defendant was also let in and the same was closed. At that stage, the petitioner filed I.A. No. 1075 of 2013 u/s 45 of the Indian Evidence Act, 1872 (for short "the Act") for sending Exs. A-1 to A-7 documents to handwriting expert. The said application was dismissed by the lower Court.

3. On the admitted facts of the case, the respondent denied receipt of a sum of Rs. 15 lakhs as far back as 12-2-2008 when he has filed his written statement. The petitioner never made any attempt to get the disputed document referred to

handwriting expert till completion of trial. Though delay may not be the sole factor in considering the application u/s 45 of the Act, on the facts of the present case, this Court is of the opinion that the petitioner is completely negligent in pursuing his cause.

4. Sri M. Rajamalla Reddy, learned counsel for the petitioner, placed reliance on the Judgment of this Court in Chityal Gundameede Ramalakshamma Vs. Ediga Rangamma and 6 Others, in support of his submission that an application for sending the document to handwriting expert for opinion can be made after closing of evidence.

5. I have perused the Judgment in Chityal Gundameede Ramalakshamma Vs. Ediga Rangamma and 6 Others, relied on by the learned counsel for the petitioner. In that case, the defendant filed an application for sending the suit document to handwriting expert after closure of the evidence on the plaintiffs' side. The lower Court has dismissed the said application. While reversing the said order, this Court placing reliance on the Judgment on Guru Govindu Vs. Devarapu Venkataramana, observed that as the defendant failed to elicit anything incriminating with regard to genuineness of Ex. A-1 from the cross-examination of the plaintiffs' witness, she has come out with the application for sending the suit document for expert's opinion.

6. In the present case, the petitioner, who is the plaintiff, very much knew the stand of the respondent/defendant as reflected in the written statement filed in the year 2008 itself. No person of ordinary prudence would expect the defendant to come out with a different version in his oral evidence from the one taken by him in the written statement. Therefore, the petitioner has no reason to have waited till completion of the evidence and file the application at his leisure after the entire evidence was closed. If such a course is permitted, the endeavour of the courts for early disposal of the cases will be frustrated. This Court is more concerned about the utter lack of diligence on the part of the petitioner in filing the application for sending the documents for the opinion of handwriting expert, than the mere length of delay in seeking the said relief. On the facts of this case I do not find any reasonable excuse for the petitioner for not filing the application before the commencement of the evidence.

7. For the above mentioned reasons, I do not find any merit in the Civil Revision Petition and the same is accordingly dismissed.

8. As a sequel to the dismissal of the Civil Revision Petition, CRPMP No. 2865 of 2014 filed for interim relief is disposed of as infructuous.