

HIGH COURT OF ANDHRA PRADESH
THURSDAY ,THE FOURTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE

PRSENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
CIVIL REVISION PETITION NO: 3121 OF 2023

Between:

1. KOTHUKURI CHAKRADHARA RAO S/o Veerraju (late), aged 51 years,
R/o D. No. 4-312/9/1, Flat no, G7,
KVR Enclaves, Near Old KKR School,
Nava Bharatnagar, Bommuru Village,
Rajahmahendravaram Mandal, East Godavari District.

...PETITIONER(S)

AND:

1. TADALA SATYANARAYANA S/o Krishna Murthy, aged 66 years,
R/o Burri Lanka Village, Kadiyam Mandal,
East Godavari District.

...RESPONDENTS

Counsel for the Petitioner(s): PONNADA SREE VYAS

Counsel for the Respondents:

The Court made the following: ORDER

HIGH COURT OF ANDHRA PRADESH

* * * *

CIVIL REVISION PETITION No. 3121 of 2023

Between:

Kothuri Chakradhara Rao

..... PETITIONER

AND

Tadala Satyanarayana

.....RESPONDENT

DATE OF JUDGMENT PRONOUNCED: **14.12.2023**

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
2. Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No
3. Whether Your Lordships wish to see the fair copy of the Judgment? Yes/No

RAVI NATH TILHARI, J

*** THE HON'BLE SRI JUSTICE RAVI NATH TILHARI**

+ CIVIL REVISION PETITION No. 3121 of 2023

% 14.12.2023

Kothuri Chakradhara Rao

...Petitioner

Vs.

\$ Tadala Satyanarayana

.....Respondent

! Counsel for the Petitioner: Sri Ponnada Sree Vyas

^ Counsel for the respondent: -Nil-

< Gist :

> Head Note:

? Cases Referred:

1. Civil Appeal No.4096 of 2022
@SLP (C) No.7452 of 2022, decided on 17.05.2022

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI
CIVIL REVISION PETITION No. 3121 of 2023

JUDGMENT:

Heard Sri Ponada Sree Vyas, learned counsel for the petitioner.

2. The petitioner is the defendant in O.S.No.211 of 2016 pending in the Court of the Judge, Family Court-cum-IX Additional District and Sessions Judge, East Godavari at Rajamahendravaram.

3. The plaintiff/respondent filed the said suit for a decree for a sum of Rs.21,97,500/- and for subsequent interest from the date of the promissory note against the defendant. In the said suit, the petitioner filed I.A.No.1430 of 2023 under Order VIII Rule 1-A and Section 151 of the Code of Civil Procedure (in short 'CPC') to condone the delay in filing the document i.e., 'chit book' containing his bid transactions in the name of respondent/plaintiff and his wife Sarada Devi. The same was contested by the plaintiff/respondent. The learned trial Court by the impugned order dated 30.08.2023 rejected the application. Challenging the said order, the present revision petition under Article 227 of the Constitution of India has been filed.

4. Learned counsel for the petitioner submits that the rejection of the petitioner's application on the ground of delay is not justified. Placing reliance in the case of ***Levaku Pedda Reddamma v. Gottumukkala Venkata Subbamma***¹ he submits that rules of procedure are hand maid of justice and

¹ Civil Appeal No.4096 of 2022
@SLP(C) No.7452 of 2022, decided on 17.05.2022

even if there is some delay, the petitioner's application could have been allowed by imposing some costs.

5. I have considered the submissions advanced by the learned counsel for the petitioner and perused the material on record.

6. Order VIII Rule 1-A CPC reads as under:

“Order VIII Rule 1-A.

Duty of defendant to produce documents upon which relief is claimed or relied upon by him.- (1) Where the defendant bases his defence upon a document or relies upon any document in his possession or power, in support of his defence or claim for set-off or counter-claim, he shall enter such document in a list, and shall produce it in Court when the written statement is presented by him and shall, at the same time, deliver the document and a copy thereof, to be filed with the written statement.

(2) Where any such document is not in the possession or power of the defendant, he shall, wherever possible, state in whose possession or power it is.

(3) A document which ought to be produced in Court by the defendant under this rule, but, is not so produced shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

(4) Nothing in this rule shall apply to documents-

(a) produced for the cross-examination of the plaintiff's witnesses, or

(b) handed over to a witness merely to refresh his memory.”

7. From a bare perusal of Rule 1-A of Order VIII CPC, it is evident that where the defendant bases his defence upon a document or relies upon any document in his possession or power, in support of his defence or claim for set off or counter claim, he shall enter such document in a list and shall produce it in Court when the written statement was presented by him and shall at the same time deliver the document and a copy thereof to be filed with the written statement. As per sub-rule (3) a document which ought to be produced in Court by the defendant under sub-rule (1) of Rule 1-A, but is not so produced

shall not be received in his evidence on his behalf at the hearing of the suit subject to the leave of the Court. Sub-rule (3) refers to sub-rule (1). Under sub-rule (1), the document which is required to be entered in the list along with the written statement is a document upon which the defendant bases his defence or relies upon any document in his possession or power, in support of his defence. Even if such a document is not entered in the list along with the written statement, the Court has got ample power under sub-rule (3) to permit the defendant to file such document even at a belated stage.

8. True, the rules of procedure are hand maid of justice and mere delay cannot be a ground to reject such application. In ***Pedda Reddamma*** (supra) the Hon'ble Apex Court held as under:

“It is well settled that rules of procedure are hand-maid of justice and, therefore, even if there is some delay, the trial Court should have imposed some costs rather than to decline the production of the documents itself”

9. In view of the judgment of the Hon'ble Apex Court in ***Levaku Pedda Reddamma*** (supra), this Court is in agreement with the submissions as advanced by the learned counsel for the petitioner that on mere ground of delay an application under Order VIII Rule 1-A CPC is not to be rejected.

10. In the present case, rejection of the petitioner's application is not on the ground of delay alone, but the learned trial Court has clearly observed that there is no pleading of the defendant in the written statement that the defendant was running chits and the plaintiff was a member of chit etc. The learned trial Court observed that the present petitioner contended that the plaintiff/respondent admitted during course of investigation that he was

member of chit run by him, but there was no explanation as to when the plaintiff so admitted as to the chit run by the defendant.

11. I find that the rejection in the present case of the petitioner's application is not merely on the ground of delay, but also on the ground that there is no pleading, for which the defendant wants to file the chit document which were neither entered in the list along with the written statement nor there was any mention in the written statement about the plaintiff being member of the chit run by the defendant/petitioner.

12. No fault can be found in rejection of the petitioner's application by the learned trial Court.

13. The petition lacks merits. No case to interfere with the impugned order, in the exercise of jurisdiction under Article 227 of the Constitution of India, is made out.

14. The civil revision petition is dismissed. No order as to costs

Pending miscellaneous petitions, if any, shall stand closed in consequence.

RAVI NATH TILHARI, J

Date: 14.12.2023

Dsr

Note:

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