

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.5449 of 2015

ORDER :

This Revision is filed challenging the order dt.07.10.2015 in I.A.No.235 of 2015 in O.S.No.27 of 2015 on the file of I Additional District Judge, Warangal, rejecting the application filed by petitioner under Order 7 Rule 11(b) C.P.C.

2. The petitioner herein is 1st defendant in the above suit which had been filed for recovery of money by respondent nos.1 and 2 against him.

3. Written statement was filed by petitioner denying the suit claim.

4. Thereafter, petitioner filed I.A.No.235 of 2015 to reject the plaint on the ground that I Additional District Judge, Warangal had no territorial jurisdiction to try the suit, and that there is no cause of action against him.

5. Counter-affidavit was filed by respondent nos.1 and 2 denying these allegations.

6. By order dt.07.10.2015, the Court below dismissed the said application. It held that respondent nos.1 and 2 had contended that towards part payment of sale consideration two cheques for a sum of

Rs.24,00,000/- were drawn on State Bank of Hyderabad, NGO's Colony Branch, Hanamkonda; that the said cheques were encashed and the amounts were received by 2nd defendant and paid to petitioner; that since the cheques were encashed at Hanumakonda through a Bank at Hanumakonda, the Court below had jurisdiction to entertain the suit; that even if the cheques in question were not issued in his name, the amount withdrawn by encashing the cheques at Hanumakonda was alleged to have been paid by 2nd defendant to petitioner in cash, and there is also a specific plea to this effect in the plaint; and so it cannot be said that the I Additional District Judge, Warangal had no jurisdiction to try the suit.

7. Challenging the same, the present Revision is filed.

8. Although the counsel for petitioner has sought to contend that there is no cause of action against petitioner, a reading of the plaint indicates that respondent nos.1 and 2 had specifically alleged at para no.12 that the amount encashed by 2nd defendant was paid to petitioner. Since there is an allegation specifically in the plaint against the petitioner/1st defendant, it cannot be said that there is no cause of action for respondent nos.1 and 2 against the petitioner. I therefore do not find any merit in the Revision, and it is accordingly dismissed. No order as to costs.

9. As a sequel, miscellaneous petitions pending, if any, in this Revision shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 11-12-2015

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