

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

CIVIL REVISION PETITION No.4242 of 2015

ORDER:

This revision is preferred by defendant Nos.2 and 3 in the suit, who moved I.A.No.1134 of 2014 in O.S.No.430 of 2008 asking the Court to frame a couple of preliminary issues for speedy disposal of the suit. The Andhra Pradesh State Road Transport Corporation is the plaintiff. As it is too well known the plaintiff-Corporation is established in furtherance of Section 3 of Road Transport Corporation Act, 1950, a Parliamentary legislation. The following two issues which defendant Nos.2 and 3 wanted to be tried as preliminary issues are:

- 1) Whether the officer who signed the plaint is competent and authorized to sign the plaint?
- 2) Whether the suit is within limitation?

The first issue sought to be raised is absolutely uncalled for and purely a technical issue as to whether the officer who signed the plaint on behalf of statutory corporation is authorized or not, is a matter between the organization and the said officer, the opposite parties to the litigation cannot seek to non suit on that score. Therefore, refusal by the trial Court to frame the first of the preliminary issues asked for cannot be faulted.

But, however, the 2nd issue which defendant Nos.2 and 3 wanted to be framed is relating to limitation. As it is too well known, limitation is a mixed question of fact and law and unless such an additional issue is framed, perhaps, the parties will not be knowing about the necessity to lead evidence in that regard. Therefore, refusal to frame such an additional issue is un-understandable.

Hence, the present revision is allowed in part with a direction to frame the following additional issue: 'whether the suit filed is within

limitation or not' and it shall be tried along with all other issues framed in the suit.

Consequently, miscellaneous petitions, if any pending shall also stand closed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

31.12.2015
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