

THE HON'BLE SRI JUSTICE K.C. BHANU
CIVIL REVISION PETITION No.119 OF 2015

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is directed against the Order, dated 02.12.2014, in Interlocutory Application No.705 of 2014 in Original Suit No.275 of 2012 passed by the IV Additional Senior Civil Judge, Guntur.

2. The aforesaid Interlocutory Application was filed to decide a preliminary issue regarding maintainability of the suit filed by different plaintiffs in different dates of cause of action. That petition was dismissed by following the judgment in **Prem Lala Nahata and another Vs. Chandi Prasad Sikaria**^[1], holding that misjoinder of causes of action is not a question of law on which the suit can be decided so as to take it as a preliminary issue. Challenging the same the present Civil Revision Petition is filed.

3. Learned counsel for the revision petitioner/defendant contended that the suit is not maintainable by different persons for recovery of money on the basis of different promissory notes; that the ratio laid down by the Hon'ble Apex Court is not applicable, whereas the decision of this Court in **Kota Sreevalli and others Vs. Chinni Seetharamaiah and others**^[2], is squarely applicable to the facts of this case.

4. Order XIV Rule 2(2) of the Code of Civil Procedure, 1908 (for short, 'CPC') reads as follows:

“[2. Where issues both of law and fact arise in the

same suit, and the Court is of the opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that issue first if that issue relates to.-

(a) the jurisdiction of the Court, or

(b) a bar to the suit created by any law for the time being in force, and that for that purpose may, if it thinks fit, postpone the settlement of the other issues until after that issue has been determined, and may deal with the suit in accordance with the decision on that issue.]

A question relating to jurisdiction of a Court may be a pure question of law or a fact or question of law and fact. It depends upon the facts of each case, whether the case is of the one or other category. Where question relates to jurisdiction as to subject matter of the suit, the same can be decided as a preliminary issue. But, on the basis of the facts stated in the plaint, the Court finds that it has the jurisdiction in the matter, it has to decide all issues together including the issue as to jurisdiction of the Court.

5. The ground taken in the application filed is that the suit was filed by the different plaintiffs basing on different causes of action. Though a single suit is filed basing on four separate promissory notes, the plaintiffs' valued the suit and paid separate Court fee on all promissory notes. As rightly pointed out by the learned Senior Civil Judge, at best, it amounts to misjoinder of causes of action which is not a question of law. Therefore, that order needs no interference by this Court. The petition is devoid of merit and the same is liable to be dismissed.

6. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs. Miscellaneous Petitions, if any,

pending in this revision shall stand closed.

JUSTICE K.C. BHANU

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Date:13.02.2014
INL

[\[1\]](#) (2007) 2 SCC 551
[\[2\]](#) 2006 (3) ALT 215