

THE HON'BLE SRI JUSTICE S.V.BHATT

CIVIL REVISION PETITION No.1311 of 2016

ORDER:

Heard Mr. C. Prakash Reddy for petitioners and Mr. S. Venkata Subba Rao for respondent.

2. The revision is directed against the order dated 10.02.2016 in I.A.No.1 of 2016 in O.S.No.21 of 2008.

3. The respondent herein filed I.A.No.1 of 2016 under Order VIII Rule 6-A of the Code of Civil Procedure seeking permission of the Court to file counter claim. The respondent through counter claim prays for specific performance of agreement of sale dated 28.09.2001.

4. Apropos to what is observed by the trial Court, it is required to be noted that, on 29.06.2012, O.S.No.21 of 2008 was decreed.

The respondent filed A.S.No.92 of 2012. The revision petitioners filed three applications viz. (1) to bring on record the legal representatives of the husband of the first petitioner; (2) to permit the petitioners to amend the pleadings of the plaint and (3) prayed for remand of O.S.No.21 of 2008 to trial Court for trial afresh. While the matter stood thus, the respondent filed the petition under Order VIII Rule 6-A CPC, as already noted.

5. Mr. C. Prakash Reddy, learned counsel, by drawing the attention of the Court to entire material available on record, tried to persuade that the prayer for counter claim should not have been accepted because the counter claim now made is far beyond the period of limitation. Learned counsel places strong reliance upon the decision of this Court in **SUGESAN & CO.**

PVT. LTD, MADRAS v. HINDUSTAN MACHINE TOOLS LTD.^[1] and prays for setting aside the order under revision.

6. Mr. S. Venkata Subba Rao, per contra, contends that the assumption of revision petitioners that the prayer for specific performance is not available to respondent is incorrect, for according to respondent, firstly, the question of limitation in a suit for specific performance cannot and could not be decided hastily and further according to the counter claim the respondent has explained how the prayer is within the period of limitation.

7. From the above submissions, it is clear the learned counsel for the parties, in support of their versions, have tried to persuade this Court to consider whether the claim for specific performance of agreement of sale dated 28.09.2011 is within the period of limitation or not.

8. I have given my anxious consideration to the submissions of Mr. C. Prakash Reddy. This Court is of the view that through I.A.No.1 of 2016 the respondent is permitted to raise counter claim.

This Court, at this stage, considers the legal and factual objections available to revision petitioners; the same virtually amounts to foreclosing the objective consideration of allegations of parties by the trial Court. As the discretion exercised to permit the respondent to raise counter claim, *prima facie*, satisfies the requirement of Rule 6-A of CPC, this Court is not inclined to interfere with the order under revision. It is made clear that the revision petitioners are entitled to take all the objections and if so taken, appropriate issues are framed by the trial Court and parties join trial. The matter is of the year 2008. Hence, the trial Court is directed to fix time schedule for completion of pleadings, frame issues and shall dispose of the suit, as expeditiously as possible, preferably within four (4) weeks from the date of receipt of a copy of this order.

The civil revision petition is disposed of. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

June 28, 2016
DSK

S. V. BHATT, J

[\[1\]](#) 2004 (3) ALD 57