

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No. 5793 OF 2016

ORDER :

This Revision is directed against the docket order dated 22.08.2016 passed by the learned Principal Junior Civil Judge at Kavali, SPSR Nellore District rejecting the plaint presented by the petitioner herein on the ground that it has not been accompanied by its duplicate, as mandated under Order VII Rule 11(e) of the Code of Civil Procedure.

Learned counsel for the petitioner *Sri Pavuluri Srinivasulu*, submits that the learned Judge, instead of rejecting the plaint straight away, ought to have afforded an opportunity to the petitioner to rectify the defect pointed out in the order under Revision. To fortify his contention, the learned counsel places reliance upon the judgment rendered by the Supreme Court in ***Salem Advocate Bar Association, Tamilnadu v. Union of India*¹** to the effect that Order VII Rules 11(e) to (f) are procedural in nature, that automatic rejection of the plaint, at the first instance, is not contemplated and that the Court should ordinarily give an opportunity for rectifying the defects, before doing so.

In the light of the authoritative pronouncement of the Apex Court, the Civil Revision Petition is allowed, directing the Court below to number the suit, subject to the petitioner complying with all other formalities. No costs.

Consequently, the miscellaneous Applications, if any shall stand disposed of.

CHALLA KODANDA RAM, J

02nd December 2016
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¹ AIR 2003 Supreme Court 189

