

HONOURABLE SRI JUSTICE A.V. SETHA SAI

CIVIL REVISION PETITION No. 4648 of 2016

ORDER:

The defendants in O.S.No.76 of 2014 on the file of learned First Additional District Judge, Ananthapuramu are the petitioners in the present Civil Revision Petition filed under Article 227 of the Constitution of India. In the present revision petition, the challenge is to the order dated 10.08.2016 passed by the aforesaid Court in I.A.No.659 of 2015 in O.S.No.76 of 2014.

Heard Sri N. Ranga Reddy, learned Counsel appearing for the petitioners. None appeared for the respondents despite service of notice.

The first respondent herein instituted the said suit claiming Rs.10,60,000/- from the petitioners/defendants for mental suffering and loss of reputation said to have been sustained by him. In the said suit, the petitioners/defendants filed I.A.No.659 of 2015 under Order XIV Rule 2(2) read with Section 151 CPC, requesting to decide the preliminary issue before entering into the arena of trial. The first respondent/plaintiff resisted the said application by filing counter affidavit. The learned Judge, by way of order dated 10.08.2016, dismissed the said application. Challenging the validity and sustainability of the said order, the present revision petition is filed.

It is contended by learned Counsel for the petitioners that the order under revision is contrary to law, and, opposed to be very spirit and object of the provisions of Order XIV and Rule 2(2) CPC. It is further contended that the Court below ought to have allowed the application having regard to the reasons mentioned in the affidavit filed in support of the application.

In the above background of the case, now the issue that arises for consideration is-“ whether order impugned warrants any interference of this Court under Article 227 of the Constitution of India ?”

The material available before this Court discloses that the petitioners/defendants filed their written statement in the month of October, 2014 and the Court below framed issues for trial in the month of November, 2014 and the present application was filed on 05.07.2015. It is also significant to note that the first respondent/plaintiff filed affidavit in lieu of chief examination in the month of June, 2015 and Exs.A.1 to A4 were marked. The learned Judge in the order impugned clearly noted that on 30.06.2015 the petitioners/defendants did not choose to cross-examine P.W.1 and as such, for cross examination of P.W.1, the suit was adjourned to 24.07.2015. On the said date also, the petitioners/defendants did not choose to cross-examine P.W.1 which led to adjourn the case to 13.08.2015. It is also to be noted that the learned Additional District Judge took note of the fact that the application of the petitioners/defendants is silent as to which

issue is required to be decided as preliminary issue. In fact the Court below framed following issues for trial.

1. Whether the representation of the defendants dated 25.03.2014 amounts to defamation.
2. Whether the plaintiff is entitled for the suit amount towards damages.
3. To what relief?

The above issue No.1 is a comprehensive issue and in fact the same requires full-fledged trial in the suit. Obviously keeping in view the said aspects, the trial Court dismissed the application. Therefore under Article 227 of the Constitution of India, this Court is not inclined to interfere with the said reasoned order passed by the Court below.

In view of the above, the Civil Revision Petition is dismissed. However, having regard to the nature of controversy the trial Court is directed to dispose of the suit as expeditiously as possible.

Miscellaneous petitions pending consideration if any in the Civil Revision Petition shall stand closed in consequence.

JUSTICE A.V. SESA SAI

DATED 04TH November, 2016.
Msnr_x