

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.6314 of 2016

ORDER:

Heard Sri M.R.S.Srinivas, learned counsel for the petitioners and Smt.I.Mamu Vani, learned counsel for respondent Nos.1 and 2.

2. This Civil Revision Petition is filed challenging the order 21-11-2016 in I.A.No.305 of 2016 in O.S.No.10 of 2010 of the I Additional Junior Civil Judge, Tanuku.

3. The petitioners herein are the defendant Nos.1 to 3 in the suit. The respondent Nos.1 and 2 filed the said suit against the petitioners for declaring that 1st respondent is Managing Director of 2nd respondent and for an injunction restraining the petitioners and other defendants from interfering with his rights as Managing Director to the day to day affairs of the Company.

4. The petitioners filed Written Statement opposing the relief sought for in the plaint.

5. When the matter was posted for arguments, the petitioners filed I.A.No.305 of 2016 seeking to amend the Written Statement by taking a plea that the suit is barred by time, and stating clearly that the petitioners will not adduce any evidence on this plea.

6. This was opposed by respondent Nos.1 and 2 on the ground that the application is belated.

7. The Court below by order dt.21-11-2016, dismissed the said application stating that when the matter is posted for arguments, petitioners have filed this application and that the petitioners are attempting to drag on the matter by filing this application.

8. Challenging the same, this Revision Petition is filed.

9. Admittedly every suit, instituted after the period of limitation prescribed under the provisions of the Limitation Act, 1963, is liable to dismissed though limitation is not set up by the defence. (Sub Section (1) of Section 3 of the Limitation Act, 1963).

10. Therefore, whether or not the petitioners have raised the plea of bar of limitation to the suit by amendment to the Written Statement, if they raise the said contention, even if there is no pleading, the Court is bound to go into the said issue. Therefore, I am of the view that there was no necessity for the petitioners to seek amendment of the Written Statement raising the plea that the suit is barred by limitation and the Court below rightly dismissed the said application since it was filed at the stage of arguments in the suit. However, the Court below shall go into the issue of limitation even though there is no such plea in the Written Statement filed by the petitioners having regard to sub Section (1) of Section 3 of the Limitation Act, 1963.

11. Accordingly, the Civil Revision Petition is disposed of. No costs.

12. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 26-12-2016
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