

**HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO**

**CIVIL REVISION PETITION No.981 of 2016**

**ORDER :**

Heard the learned counsel for the petitioner, before admission of the revision, and notice served to the proposed parties viz., respondent Nos.4 to 6. Proof filed besides notice sent to respondent Nos.1 to 3, returned as left without instructions, hence taken heard as deemed sufficient service of notice. Perused the material on record.

2) There is nothing before this Court as to what made to not press the suit before numbering for the office objection so far as defendant Nos.3 to 5 who are the proposed parties to be impleaded. Having been withdrawn at the numbering stage, in cause numbering the suit against the two defendants D-1 and D-2, leave about another private person impleaded as D-3, subsequently by amendment it is now covered by the order of the impugned application, the plaintiff wants to seek impleadment of the said original D-3 to D-5 as D-4 to D-6 as in between some private person impleaded as D-3. There is nothing to show compliance of Section 80 C.P.C of two months' prior notice before impleading the proposed defendant Nos.4 and 5, the public servants besides the proposed respondent No.6, the State represented by District Collector as contemplated by

Order XXVII Rule 5-A CPC to maintain a suit against public servant in discharge of duties, the Government also be necessary party and the suit notice is mandatory. Leave about earlier application, before numbering the suit, filed under Section 80(2) CPC to dispense with the requirement of two months' prior notice ceases its efficacy on withdrawal of suit against D-3 to D-5 before numbering stage as referred supra; for subsequent impleadment of the Government or public servants, the question of exemption of two months notice by invoking Section 80(2) Cr.P.C does not arise. Having regard to the above, it is left open to file a fresh application by complying with the requirement of two months' notice as per Order XXVII Rule 5-A and Section 80 C.P.C.

3) Accordingly and in the result, the revision is disposed of at the admission stage. There shall be no order as to costs. Miscellaneous petitions, if any pending, shall stand closed.

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**DR.JUSTICE B.SIVA SANKARA RAO**

Dt.04.04.2016  
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