

HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.1993 of 2016

ORDER:

This revision petition under Article 227 of the Constitution of India by the unsuccessful petitioner/defendant is directed against the order dated 13th November, 2015 of the learned XIII Additional District and Sessions Judge, Ranga Reddy at L.B.Nagar, passed in I.A.No.351 of 2014 in O.S.No.674 of 2014 filed under Order VII Rule 11(a) of the Code of Civil Procedure, 1908, requesting to reject the plaint on the grounds that it does not disclose a cause of action and that the claim in the plaint is barred under the law for the time being in force.

The said application was resisted by the plaintiffs.

On merits and by the orders impugned in this revision, the trial Court dismissed the said application. Therefore, the aggrieved 1st defendant is before this Court.

Learned counsel for petitioner would submit that there is an earlier round of litigation and that in the said litigation, during the execution proceedings, a claim petition in E.A.No.36 of 2005 was filed by the present plaintiffs and that the said claim petition ended in dismissal and that in that view of the matter, the present suit is barred. He would also submit that the plaint averments even if read in entirety do not disclose a cause of action. Per contra the learned counsel for the plaintiff submits that the contentions of the 1st defendant are devoid of merit and do not merit consideration at this stage, in any view of the matter. Be that as it may. At the hearing before this Court a detailed reference was made to certain documents by the

learned counsel for both the sides. Though the 1st defendant also relies upon certain documents to substantiate his contentions that the suit filed by suppression of material documents and facts is barred by the principle enshrined in the doctrines of 'estoppel by record' and 'res judicata', the said documents are not exhibited at the time of hearing of the subject application before the trial Court. Be it also noted that the learned counsel for the plaintiff *inter alia* contends that the plaint averment are only to be looked into and not the defence. It is also to be further noted that the trial Court dismissed the petition of the 1st defendant/revision petitioner without passing a speaking order and that in its cryptic order the trial Court observed that the correctness of the cause of action cannot be decided at the interlocutory stage. The grievance is that it did not examine as to whether the plaint averments disclose the existence of a cause of action or not and as to whether or not the suit is barred by any law for the time being in force.

The law is well settled that in an application of the present nature, the trial Court is required to pass a reasoned order. It is apt to refer to the decision in **Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota Vs. Shukla and Brothers** [(2010) 4 SCC 785], wherein it was held as follows:

Providing of reasons in orders is of essence in judicial proceedings. Every litigant who approaches the Court with a prayer is entitled to know the reasons for acceptance or rejection of such request. Either of the parties to the lis has a right of appeal and, therefore, it is essential for them to know the considered opinion of the Court to make the remedy of appeal meaningful. It is the reasoning which ultimately culminates into final decision which may be subject to examination of the

appellate or other higher Courts. It is not only desirable but, in view of the consistent position of law, mandatory for the Court to pass orders while recording reasons in support thereof, however, brief they may be.

Since the order of the trial Court is not in accordance with the said settled position of law, the said order impugned in this revision is liable to be set aside on the said ground alone.

On the above analysis, this Court finds that the order impugned in this revision is unsustainable and is liable to be set aside.

Accordingly the order of the trial Court passed in I.A.No.351 of 2014 in O.S.No.674 of 2014 is set aside and the said application is remitted to the trial Court for giving an opportunity of fresh hearing to both the sides and disposal afresh in strict accordance with the procedure established by law. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

M.SEETHARAMA MURTI, J

30th November 2016

ajr