

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

CIVIL REVISION PETITION NO.2569 of 2016

ORDER:

This revision petition arises out of the dismissal of an application for rejection of the plaint filed under Order VII Rule 11 of Code of Civil Procedure, 1908.

Heard Mr. Narasimha Rao Gudiseva, learned counsel for the petitioner.

The respondent herein filed a suit in O.S.No.61 of 2014 on the file of the II Additional District Judge, Vijayawada for recovery of a sum of Rs.90,45,000/- together with interest @ 24% per annum. The petitioner filed an application under Order VII Rule 11 in I.A.No.2355 of 2015 seeking rejection of plaint on the sole ground that the plaint averments attract the provisions of Foreign Exchange Amendment Act, 1999 r/w Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000. The trial Court dismissed the application on the ground that there is no bar for the institution of the suit under the relevant Regulation. It is against the said order that the petitioner is before this Court.

As rightly pointed out by the Court below, the Foreign Exchange Amendment Act or the Regulations issued thereunder do not bar the institution of a suit. Assuming without admitting that there was a violation of the Regulations, the petitioner is a co-conspirator in the commission of the violation. At his instance, especially, when there was clause to repay the debt, such a defence cannot be accepted.

To fall within the purview of Clause (a) of Rule 11 of Order VII the suit should be barred by law. There is no provision in the Foreign Exchange Amendment Act, 1999 or the Regulations issued thereunder, barring the institution of the present suit. Therefore, the application for rejection of plaint was rightly dismissed by the Court below. Hence the Civil Revision Petition is dismissed. No costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE V. RAMASUBRAMANIAN

17th June, 2016
Js.