

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.2299 OF 2016

ORDER:

The present revision petition is filed challenging the order, dated 11.03.2016, passed in I.A.No.274 of 2014 in O.S.No.5 of 2013 on the file of Junior Civil Judge, Yellareddy, dismissing the application filed under Order XIV Rule 5 (1) C.P.C. requesting the Court to frame an additional issue, "whether the respondent – plaintiff holds money lending licence or not".

2. It appears, the respondent - plaintiff resisted the said request raising the plea that in the written statement the petitioner – defendant has not taken any plea at all touching the said aspect.

3. The Court below observing that no plea was taken by the revision petitioner, as defendant in the Suit, in the written statement touching that aspect, opining that the request to frame additional issue cannot be permitted, dismissed the application.

4. Heard learned counsel for the petitioner. Despite service of notice on the respondent, none appears.

5. Learned counsel for the petitioner would submit that no evidence was let in, in the Suit and the trial is yet to

be commenced. He further submits that he has ascertained the same from the learned counsel on record in the Court below.

6. Certainly, there cannot be any embargo for framing additional issue, as requested, irrespective of the fact whether there is a plea to that effect or not in the written statement. Further, whether such an issue would be a question of law or mixed question of law and fact can be decided by the Court below at an appropriate stage.

7. Therefore, the present revision petition is allowed setting aside the impugned order, dated 11.03.2016. Consequently, I.A.No.274 of 2014 stands allowed.

8. Miscellaneous Petitions, if any, pending in this revision petition, shall stand closed. No costs.

A. SHANKAR

NARAYANA, J

July 22, 2016.

MD