

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.4794 of 2016

ORDER:

The unsuccessful petitioner/defendant No.1 in I.A.No.873 of 2012 in the suit O.S.No.702 of 2011 maintained by sole plaintiff against 2 defendants, when sought for rejection of plaint that was ended in dismissal by the impugned order of the lower Court dated 03.03.2014, maintained the revision.

The 1st defendant sought for rejection of the plaint saying the suit transaction is hit by Section 9(2) of the AP (Telangana Area) Money Lenders Act 1349 Fasli (for short 'the Act'). It is the defence of the 1st defendant in the suit which he has taken in the written statement filed by him. So far as the plaint averments concerned, Para 5 of the plaint shows cause of action on 20.06.2011 when 1st defendant approached plaintiff in obtaining hand loan and executed pro-note for the amount and when for the second time the 1st defendant obtained another hand loan and subsequently plaintiff got issued notice, which the defendant No.1 avoided to reply and the jurisdiction Para mentioned as where 1st defendant resides and office of 1st defendant situate in Hyderabad. The suit transaction is hit by the Act or not it is from the written statement defence required to be decided by the Court during trial. Thus from the above the plaint on its face cannot be straight away liable to be rejected invoking Order VII Rule 11 Clause (d) or (a) CPC. No doubt there are observations in the impugned order of the lower Court in dismissing the plaint rejection petition by going into the merits. Thus it is made clear that the observations no way come in

the way to the defence of defendant in the suit including in framing and deciding as a specific issue on that aspect.

Having regard to the above, the revision petition is disposed of by left open to the defendant No.1 to ask the trial Court, for the written statement already filed by him, to formulate a specific issue in relation thereto as per Order 14 Rule 2 CPC. Needless to say the suit is of the year 2011, the trial Court shall make endeavour for expeditious disposal.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

Date: 13.12.2016
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JUSTICE Dr. B.SIVA SANKARA RAO

