

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.2904 OF 2015

ORDER:

Heard the learned Senior Counsel Sri B.V. Subbaiah appearing for the petitioner and Sri M.Krishna Prasad, the party-in-person- for the respondent.

2. The present Civil Revision Petition is directed against the order dated 24.04.2015 in I.A.No.1187 of 2013 in O.S.No.1818 of 2011 on the file of the Court of the V Senior Civil Judge, City Civil Court, Hyderabad (for short, trial Court).

3. The respondent herein filed the said suit seeking damages of Rs.3 lakhs against the petitioner herein. In the said suit, after filing the written statement, issues were framed. At that stage, the petitioner filed I.A.No.1187 of 2013 to reject the plaint on the ground that the main suit itself is based on his actions as an Arbitrator in a matter between the respondent and South Central Railway. The respondent filed a detailed counter opposing the said application.

4. The trial Court passed the following order on 24.04.2015 dismissing I.A.No.1187 of 2013.

“9. Taking the above rival contentions into consideration this Court also hold that there are disputes with regard to maintainability of suits on point of limitation and cause of action which involves the point of law and facts. So when there is disputed questions which cannot be decided at the time of considering applications filed under Order 7 Rule 11 CPC as observed by their Lordships in case **Popat and Kotecha Property Vs. State Bank of India Staff Association** 2005 (6) SCJ 582. Especially in the present case the petitioner also requested to take up the above aspects and tried as preliminary issues. Under the circumstances, the petitioner is entitled to seek the relief for rejection of plaint at this stage. Hence, the petition is liable to be dismissed. Point is thus answered accordingly.”

5. The trial Court dismissed the said application without advertng to

the rival contentions, but based on general observations. The manner of dismissal of the application of the petitioner, as above, is not appreciated by this Court.

6. In the circumstances, this Court is constrained to set aside the impugned order of the trial Court dated 24.04.2015 and remand the matter to the trial Court for passing fresh orders in accordance with law after hearing the petitioner as well as the respondent. The trial Court is directed to dispose of I.A.No.1187 of 2013 on or before 30.04.2016 without influenced by any observations made in the earlier order dated 24.04.2015.

7. Accordingly, the Civil Revision Petition is allowed. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

A.RAMALINGESWARA RAO, J

Date: 28.01.2016
TJMR