

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CIVIL REVISION PETITION No.2879 of 2016

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed challenging the order dated 22.03.2016 in I.A. No.675 of 2014 in O.S. No.48 of 2006 passed by the Principal Junior Civil Judge, Nirmal, Adilabad District (for short, 'trial Court').

2. The revision petitioner, who is defendant in O.S. No.48 of 2006, filed I.A. No.675 of 2014 before the trial Court seeking to frame an additional issue to the effect that the rectification deed No.3883/2005 dated 28.09.2005 is barred by limitation and the said application was dismissed by the trial Court on the ground that there is no pleading to that effect in the written statement.

3. Learned counsel for the revision petitioner submits that since no issue has been framed by the trial Court as to whether the rectification deed is barred by limitation or not, the revision petitioner filed the said application seeking to frame an additional issue and the trial Court committed a serious error in dismissing the said application, completely on untenable and unsustainable ground and, therefore, sought to allow the revision petition by setting aside the impugned order.

4. Perused the order of the trial Court.

5. Framing of an additional issue touching the limitation aspect will not in any way cause prejudice to the parties. It is always open for the parties to submit their arguments with regard to the limitation aspect after framing of additional issue.

6. In that view of the matter, this Civil Revision Petition is allowed, setting aside the impugned order dated 22.03.2016. Consequently, I.A. No.675 of 2014 in O.S. No.48 of 2006 is allowed,

directing the trial Court to frame an additional issue as to whether the rectification deed No.3883/2005 dated 28.09.2005 is barred by limitation. There shall be no order as to costs.

7. At this stage, it is submitted by the learned counsel for revision petitioner/defendant that after framing of an additional issue, the revision petitioner/defendant will not seek any time for leading additional evidence, since the suit is at the stage of arguments.

8. Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date: 12.08.2016

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