

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P. No.5660 OF 2016

ORDER:

Heard both sides and perused the material on record including the impugned order dated 15.09.2016 passed in I.A. No.564 of 2014 in O.S. No.520 of 2014 on the file of II Senior Civil Judge, City Civil Court, Hyderabad dismissing the application of the defendants 1 and 2 to reject the suit of the plaintiffs under Order VII Rule 11 (b) and (d) C.P.C with observation that though the respondents/ plaintiffs not filed any documents in support of their case, the lis requires to be decided by conducting elaborate trial.

2) Learned counsel for respondents filed counter opposing rejection of plaint stating that the MOU signatures are not in dispute but with the version that petitioner No.1 failed to comply the understandings of MOU, to some extent not even specifically in dispute.

3) No doubt, learned counsel for the revision petitioners placed reliance on the expression of the Apex Court in ***T.Arivandandam vs T.V Satyapal***¹ wherein the Apex Court held that the allegations of plaintiffs alone are basis even for rejection of the plaint from any of the clauses (a) to (f) of Order VII Rule 11 C.P.C and not from brining of fresh material by the defendant. What is now pointed out by the revision petitioners is that the plaint is outcome of suppression of factum of MOU and there is no version of MOU not acted upon even to say it was allegedly obtained in police station with a new version. In fact, these are the disputed questions of fact to be decided and not a purely question of law to reject the plaint.

¹ AIR 1977 SC 2421

4) Having regard to the above, it is a fit case while upholding the order of the lower Court but for by making it clear that those observations will not influence the mind of the lower Court in further decision of the matter. However, the revision petitioners are at liberty to file their written statement and from ask which the lower Court to frame a specific issue as to maintainability of suit claim from any subsistence of cause of action and that was not barred by law and to decide the said issue as a preliminary issue without deciding other issues by virtue of the above directions.

5) Accordingly and in the result, the revision is disposed of without prejudice to the contest of both sides and with above observations. No order as to costs.

6) Consequently, Miscellaneous petitions, if any pending in this Revision, shall stand closed.

Dt.26.12.2016
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Dr. B. SIVA SANKARA RAO, J