

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

CIVIL REVISION PETITION No.2330 of 2017

ORDER:

This revision filed by the defendant in O.S.No.84 of 2012 on the file of the Court of learned Junior Civil Judge, Tadipatri, Ananthapur District, assails the docket order, dated 15.03.2017, passed by the said Court in I.A.No.179 of 2017 in O.S.No.84 of 2012.

Heard the learned counsel for the petitioner and perused the material available before the Court.

The respondent herein instituted the subject suit against the petitioner herein for specific performance of contract of sale. When the suit stood posted for arguments, on 28.02.2017, the defendant/petitioner filed the present application under the provisions of Order XIV Rule 5 of the Code of Civil Procedure, 1908 praying the Court below to frame an additional issue as to whether the suit is barred by limitation. The learned Junior Civil Judge, Tadipatri, by way of the impugned docket order, dated 15.03.2017, dismissed the said application. This revision filed under Article 227 of the Constitution of India calls in question the said order.

According to the learned counsel for the petitioner, the order passed by the Court below is erroneous, contrary to law and opposed to the very spirit and object of the provisions of Order XIV Rule 5 C.P.C. He submitted that in the event of the application being allowed, the same would not cause any

prejudice to the other side. He contended that the petitioner herein has taken the plea of period of limitation also in his written statement.

A perusal of the order under challenge clearly shows that the suit is at the arguments stage and the learned Junior Civil Judge categorically and clearly observed that the first issue already framed touches the aspect of limitation also and further observed that even assuming that the said issue does not touch the aspect of limitation, the Court is at liberty to consider the same *suo moto* before pronouncement of judgment. Therefore, this Court does not find any valid reason to set aside the said order.

For the aforesaid reasons, the civil revision petition is dismissed.

Miscellaneous petitions, if any, shall also stand dismissed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 16.06.2017
ES