

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.3326 of 2012

ORDER :

This revision is filed by the petitioners/ defendants 2 and 3, aggrieved by the order dated 29.02.2012 in I.A.No.304 of 2011 in O.S.No.363 of 2008 passed by the III Additional District Judge (FTC), Ranga Reddy District, L.B.Nagar.

Heard both sides.

Impugning the very maintainability of the suit from the bar under Order VII Rule 11(d) C.P.C. of only proceedings under the Land Grabbing (Prohibition) Act exclusively maintained and not a civil suit, the defendants 2 and 3 among three defendants filed the application in I.A.No.304 of 2011 after service of summons in the suit No.O.S.No.363 of 2008. It is, on contest, that petition was ended in dismissal on 29.02.2012 and the present revision is maintained.

The contention in the grounds of revision vis-à-vis oral submissions of the counsel for the petitioners, referred as defendants 1 and 2 instead of 2 and 3, as the case may be, is that the trial Court gravely erred for the legal bar in

maintainability of the suit instead of rejecting the plaint, in dismissing the application, despite, civil Court has got jurisdiction to entertain the suit and there is no cause of action to maintain the suit of the plaintiff and from the legal bar and thereby, the order is liable to be set aside.

Whereas, it is the submission of the learned counsel for the respondents/ plaintiffs in supporting the order of the lower Court otherwise in saying, by virtue of memo in U.S.R.No.1065 of 2017 dated 16.02.2017 filed in the revision, the revision became infructuous as the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 (for short 'the Act'), is repealed so far as the State of Telangana concerned since 2016, in view of G.O.Ms.No.113 dated 01.06.2016 particularly in para-5 of the G.O. saying it is decided to repeal the Act and its application to the State of Telangana.

Heard and perused the impugned order and the grounds urged in the revision and the rival contentions.

From very perusal of the reading of the plaint it discloses that the suit is barred by law and not from the written statement defence of the defendants or the contest raised in the application to reject the plaint other than from plaint averments and documents in support of the

plaint if any. Once such is the case, when trial Court came to the conclusion of there is no legal bar contemplated by Order VII Rule 11 (a) or (d) of C.P.C. rejecting the plaint, which shows cause of action and jurisdiction from the averments, for this Court while sitting in revision, there is nothing to interfere including from the subsequent events as to if at all originally lack of jurisdiction will cure the defect from the repeal of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 w.e.f 01.06.2016 for the State of Telangana, thereby, the revision is disposed of without prejudice to the available defense of the defendants including on maintainability of the suit by raising a specific issue, as the suit is of the year 2008 pending more than 9 years, under Order XIV Rule 2 r/w Order XX Rule 5 C.P.C. for the Court to decide on own merits.

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

Dr. B. SIVA SANKARA RAO, J

Date:20-11-2017
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