

HON' BLE SRI JUSTICE S. V. BHATT

Civil Revision Petition No.3689 of 2017

ORDER:

Heard Mr. Dadi Radha Krishna for petitioners.

2. The revision petitioners herein are the defendants in OS No.81 of 2016. The revision petitioners filed IA No.12 of 2017 under Order VII Rule 11 CPC praying for rejection of plaint in OS No.81 of 2016. The respondent herein filed counter and resisted the application on all fours.

3. The trial court framed the following point for consideration:

"Whether the plaint filed by the respondent/plaintiff is liable for rejection?"

4. The learned trial Judge, after taking note of the issues in the suit and also the objections raised against the plaint in OS No.81 of 2016, has recorded a finding that these are either taken singularly or together and are matters on trial, and, accordingly, declined to exercise the jurisdiction under Order VII Rule 11 CPC.

5. Learned counsel for the petitioners tried to convince this court that the very foundation of the plaint is untenable and incorrect and calling upon the petitioners herein to join trial in an avoidable situation is also one of the grounds available for rejection under Order VII Rule 11 CPC.

6. Keeping in view the submission raised by learned counsel for petitioners, I have perused the documents, which are filed along with the revision petition. This court is also of the view that the circumstances now canvassed for rejecting the plaint are relevant facts for consideration while examining the case of revision petitioners herein.

I do not see any infirmity or illegality warranting interference under Article 228 of the Constitution of India.

7. The civil revision petition fails and is, accordingly, dismissed. It is made clear that the trial court while considering the suit and the issues therein proceeds in the matter uninfluenced by any of the observations recorded in the Interlocutory Application under challenge or by this court. No order as to costs. Pending miscellaneous petitions if any in this petition shall stand dismissed in consequence.

Date: 02.08.2017
BSS

S.V. BHATT, J



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