

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

C.R.P.No.2418 of 2017

ORDER

This revision is directed against the order dated 29.11.2016 passed in I.A.No.517 of 2016 in O.S.No.18 of 2016 by the Additional Senior Civil Judge, Srikakulam.

2. The respondent/plaintiff filed suit in O.S.No.18 of 2016 for recovery of money against the petitioner/defendant. When the said suit was posted for trial, the petitioner filed I.A.No.517 of 2016 under Order 14 Rule 2 of CPC to frame an issue pertaining to the jurisdiction of the Court to try the suit. By the order impugned, the trial Court dismissed the said application. Aggrieved by the same, the petitioner filed the present revision.

3. Learned counsel for petitioner submits that though there was a specific pleading in the written statement that the Court has no jurisdiction, the trial Court has lost sight of the same and held that there was no pleading in the written statement with regard to jurisdiction aspect.

4. Learned counsel for respondent submits that the present application is filed at a belated stage since the matter was coming up for arguments and therefore, the trial Court has rightly dismissed the application.

5. Heard both sides and perused the material on record.

6. The suit is filed for recovery of money based on the promissory note. The defendant filed written statement on

21.04.2016 denying the averments made in the plaint. She also pleaded that there is no jurisdiction. However, no issue was framed with regard to jurisdiction of the Court. The trial Court without looking into the averments of the written statement in proper perspective dismissed the application holding that there was no pleading in the written statement with regard to jurisdiction, whereas, in the written statement, it is categorically stated that the Court has no jurisdiction. Therefore, the trial Court ought to have framed the issue with regard to jurisdiction.

7. In that view of the matter, the Civil Revision Petition is allowed setting aside the order dated 29.11.2016 passed in I.A.No.517 of 2016 in O.S.No.18 of 2016 by the Additional Senior Civil Judge, Srikakulam. The trial Court is directed to frame an additional issue as to 'whether the Court has got jurisdiction to try the suit' and dispose of the suit within one month from the date of receipt of a copy of this order since the suit is at the stage of arguments. No order as to costs. Miscellaneous petitions, if any, pending in this revision shall stand closed.

M.S.K. JAISWAL, J.

17th July, 2017

sj

Note:

Registry is directed to communicate this order to the trial Court within two days.