

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No.2314 of 2017

28.04.2017

Between:

Smt.Nelipudi Purnima and another

..Petitioners

and

Sri Sai Madhava Constructions, Visakhapatnam,
represented by its Proprietor

..Respondent

Counsel for the petitioners: Ms.M.S.V.S.Sudharani

Counsel for the respondent: --

The Court made the following:



ORDER:

This civil revision petition arises out of order, dated 16.03.2017, in I.A.No.1569 of 2015 in O.S.No.706 of 2015 on the file of II Additional District Judge, Visakhapatnam.

2. The respondent filed the aforementioned suit for recovery of money against the petitioners. The petitioners, in turn, filed the aforementioned I.A. under Order VII Rule 11(d) C.P.C. for rejection of the plaint. This application, having been dismissed by the Court below, the unsuccessful petitioners therein filed this revision petition.

3. On considering the facts of the case and position in law, I am of the opinion that the application filed by the petitioners for rejection of the plaint was wholly misconceived, for the reason that under Order VII Rule 11(d) C.P.C., a plaint may be rejected if the suit is barred by law. The plea of the petitioners that in view of existence of arbitration clause, the suit is barred is without any merit. Mere existence of arbitration clause would not bar the suit, in that, Order VII Rule 11(d) C.P.C. is attracted only where any statute provision whether explicitly or by implication bars maintenance of the suit. The arbitration clause does not have such statutory force of barring the suit. If the petitioners feel that the suit is not maintainable in view of existence of arbitration clause, they can only take recourse to the provisions of Section 8 of the Arbitration and Conciliation Act, 1996 for reference of the dispute to arbitrator.

4. Subject to the liberty given to the petitioners as above, the Civil Revision Petition is dismissed.

5. As a sequel to dismissal of the C.R.P., C.R.P.M.P.No.3018 of 2017 filed by the petitioners for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

28th April, 2017
GHN

