

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.1749 of 2017

ORDER :

The revision petitioner is the 2nd defendant, among two defendants, of the suit in O.S.No.1205 of 2015 filed by sole plaintiff. Pending the suit, I.A.No.357 of 2016 is filed under Order VII Rule 11 clause (a) read with Section 151 C.P.C. for rejection of the plaint. Order VII Rule 11 clause (a) C.P.C. speaks of cause of action. It is the averment in the affidavit petition that the suit is filed for recovery of money with interest by the plaintiff by adding only Managing Director of the 1st defendant company as the 2nd defendant in personal capacity and there is no cause of action to sue the Managing Director in his individual capacity and the suit is barred by mis-joinder of parties. As rightly observed by the lower Court in para 7 clause (c) only the plaint allegations are deceive to determine whether there is cause of action to maintain the suit or not. Here, a perusal of the plaint shows specifically the cause of action to maintain the suit. Regarding the so-called mis-joinder or non-joinder concerned, it is left open to the defendant in the event of receiving or filing of written statement from any specific plea to ask for formulating any a specific issue, if necessary. Having regard to the above, there is nothing to reject the plaint, much less to sit against the dismissal order. Thus thee is nothing to allow the revision.

2. With these observations, the revision is disposed of.

Miscellaneous petitions pending, if any, shall stand dismissed.

No order as to costs.

Dr. B. SIVA SANKARA RAO, J

15th December 2017.

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