

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Civil Revision Petition No.5375 OF 2017

ORDER:

This Civil Revision Petition is filed against order dated 10.08.2017 in I.A.No.8 of 2017 in O.S.No.110 of 2009, wherein the Court below has dismissed the application filed by the petitioner under Order VII Rule 11 r/w Section 151 CPC for rejection of plaint.

Heard Party in Person, who submits that separate suit OS.No.50 of 2001 is filed by him before the III Senior Civil Judge, City Civil Court at Secunderabad and same was decreed on 10.12.2007. Appeal filed against the same is pending before this Court in CCCA No.71 of 2008 and the subject matter in both these suits is one and the same. He submits that the mother of the petitioner has not signed the plaint and suit is barred by limitation.

The Court below has examined the aforesaid aspects and *prima facie* found that the suit is within the limitation and also held that it is for the plaintiff to prove the cause of action at the time of trial. The Court below also found that the plaint is registered after complying with all formalities. It is also observed that the petitioner herein is in the habit of filing one petition after the other because of which, the trial in the suit is delayed.

It is to be seen that the trial in the suit has also began. No doubt, the Court has power to reject the plaint at any stage before conclusion of the trial, as held by the Hon'ble Supreme Court in

the judgment reported in **Saleem Bhai and others v. State of Maharashtra and others**¹, but the petitioner has to make out a case for rejection of the plain in terms of Order VII Rule 11 of C.P.C, which reads as follows:

“11. Rejection of plaint.-The plaint shall be rejected in the following cases:-

- (a) where it does not disclose a cause of action;
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the court to correct the valuation within a time to be fixed by the court, fails to do so;
- (c) where the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the court to supply the requisite stamp paper within a time to be fixed by the court, fails to do so.
- (d) Where the suit appears from the statement in the plaint to be barred by any law;
- (e) Where it is not filed in duplicate;
- (f) Where the plaintiff fails to comply with the provisions of Rule 9:

Provided that the time fixed by the court for the correction of the valuation or supplying of the requisite stamp papers shall not be extended unless the court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp papers, as the case may be, within the time fixed by the court and that refusal to extend such time would cause grave injustice to the plaintiff.”

The Court below, having found that the petitioner has not satisfied the aforesaid conditions, dismissed the application. Except reiterating the submissions, Party in Person has not brought to the notice of the Court what is the infirmity in the order passed by the Court below. At the stage of Order 7 Rule 11, rowing enquiry need not be conducted for rejection of plaint. More so, plaint can be rejected only when the applicant satisfies any of the grounds mentioned in Order 7 Rule 11 of CPC, and not on any other ground. Petitioner has not made out any case to establish that the grounds urged by him fall within the parameters of Order 7 Rule 11 CPC.

¹ (2003) 1 Supreme Court Cases 557

In view of same, I am not inclined to entertain the revision.

Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs. If, according to the petitioner, the subject matter in the earlier suit and present suit is same, he may invoke Section 10 of CPC for stay of proceedings in the present suit. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

27-10-2017

kvs



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