

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.6040 of 2017

ORDER :

Heard.

2. The contention in the revision by the defendant of the present suit O.S.No.453 of 2016 having went unsuccessful in I.A.No.143 of 2017 by dismissal order, dated 09.10.2017, by the Waqf Tribunal, Hyderabad, in dismissing his application to reject the plaint is that there is no real cause of action even from the perusal of the plaint at para 11 a pretended cause of action, much less with any particular date. The application is filed invoking Order VII Rule 11 clause (a) C.P.C. and not even under clause (d) of the provision. Order VII rule 11 clause (d) C.P.C. deals with bar by any law and clause (a) deals with lack of cause of action. The plaint averments as a whole to be read to consider whether there subsists any cause of action or not. Even undisputedly earlier O.S.No.24 of 2011 on the file of the Waqf Tribunal was for a bare injunction on by then subsisting cause of action disposed of. This is a suit for recovery of possession a comprehensive one. Para 11 of the plaint averments also show the accrual of the cause of action from the said suit and subsequent events therefrom in maintaining the suit including from the exchange of notices, leave about giving of the police complaint.

3. Having regard to the above, there is nothing to interfere with the lower Court's dismissal order of plaint discloses a cause of action.

The counsel for the revision petitioner as defendant to the suit raises several aspects, which are left open to him to raise in the written statement if at all not filed and urge before the Court if at all anything to be decided as a preliminary issue as contemplated by Order XIV Rule 2 read with Order XX Rule 5 C.P.C.

4. With these observations, the civil revision petition is dismissed.

Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

16th November 2017.

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Dr. B. SIVA SANKARA RAO, J

