

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P. No.86 of 2017

ORDER:

Heard both sides and perused the material on record including the impugned order and the grounds of Civil Revision Petition.

2. So far as the limitation and bar to the suit irrespective of Section 3 of the Limitation Act is concerned, it is the duty of Court, without even a plea on any bar of limitation, to consider; once it is a mixed question of fact and law, the plaint cannot be outrightly rejected invoking the Order VII Rule 11(d) C.P.C. So far as the cause of action is concerned, once the plaint discloses the existence of cause of action from its plain reading, the contention including in the affidavit petition to the rejection of plaint cannot be considered for rejection of plaint.

3. Having regard to the above, there is nothing to interfere by sitting in revision against the order of the lower Court, but for to say none of the observations will influence the mind of the trial Court including in the event of filing any application by the defendants for deciding as one of the preliminary issues regarding the bar of limitation and the non-existence of real cause of action, if at all.

Accordingly and in the result, the Civil Revision Petition is disposed of. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

04.01.2018
MVA

