

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.3340 of 2018

ORDER:

Heard both sides.

A perusal of the order of the lower Court in rejecting the application to reject the plaint filed in IA.No.493 of 2017 is based on the petition averments and the defence raised cannot be gone into at this stage and what is the contention is there is no cause of action. In fact what is cause of action is specifically averred in the very petition undisputedly which is sufficient to maintain the petition.

Once such is the case, the cause of action pleaded is false and there is bar of law from the earlier claim of Hindu and now claimed as Christian apart from earlier dismissal of the divorce petition filed under Section 13 of the Hindu Marriage Act are the matters to be decided after leading of evidence on factual controversy, thereby once it is a mixed question of fact and law, the only remedy is ask for deciding a preliminary issue at best and not for rejection.

There is nothing to interfere with the impugned order of the trial Court either that order or this order in dismissing the revision no way influence the mind of the Court in deciding any such issue by preliminary issue if at all sought under Order 14 Rule 2 CPC.

Having regard to the above, this Civil Revision Petition is disposed of.

Miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 03.08.2018
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