

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

CIVIL REVISION PETITION NO.3197 OF 2018

DATED:21-06-2018

Between:

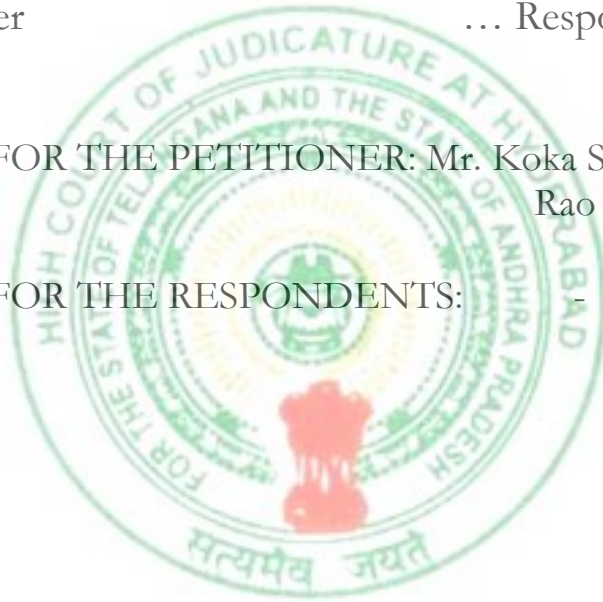
C. Veerabhadra Rao ... Petitioner

And

Marupudi Prabhakara Rao
and another ... Respondents

COUNSEL FOR THE PETITIONER: Mr. Koka Satyanarayana
Rao

COUNSEL FOR THE RESPONDENTS:



THE COURT MADE THE FOLLOWING:

ORDER:

This civil revision petition arises out of order dt.27.03.2018 in I.A. No.139 of 2018 in O.S. No.76 of 2010 on the file of the I Additional Senior Civil Judge, Visakhapatnam.

I have heard Mr. Koka Satyanarayana Rao, learned counsel for the petitioner, and perused the record.

The petitioner filed the aforementioned suit for recovery of money. Respondent No.1 filed a written statement and also a counter claim, claiming certain amounts under a Memorandum of Understanding. The petitioner filed I.A. No.139 of 2018 under Order VII Rule 11 of the Code of Civil Procedure, 1908, for rejection of the counter claim on the ground that it is barred by limitation.

Though a plaint or counter claim is liable to be rejected on the ground that the same is barred by law, limitation being a mixed question of fact and law, it is not proper for the Court to reject the plaint or counter claim at a pretrial stage on the ground that it is barred by law of limitation, unless the fact that it is barred by limitation is admitted by the party which files the suit or the counter claim.

In the above view of the matter, I do not find any merit in this civil revision petition and the same is accordingly dismissed.

As a sequel to disposal of the civil revision petition, I.A. No.1 of 2018 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

21-06-2018

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