

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.R.P.No.4561 of 2017

ORDER:

This revision petition is filed under Article 227 of the Constitution of India assailing the orders dated 05.07.2017 passed in I.A.No.239 of 2017 in O.S.No.115 of 2015 on the file of the XIX Additional Senior Civil Judge Court, City Civil Court, Secunderabad.

2. Heard both the counsel.

3. The first respondent filed a suit against the petitioner and the second respondent for recovery of the suit amount. During pendency of the suit, the petitioner filed a petition under Order VII Rule 11 CPC to reject the plaint. The first respondent filed counter opposing the claim of the petitioner. The trial Court after considering the material available on record, dismissed the petition. Hence, the revision.

4. It is needless to say the Court has to pass orders keeping in mind the scope of Order VII Rule 11 CPC. The petitioner filed the petition on two grounds: (1) there is no cause of action to file the suit; and (2) the suit is barred by limitation.

5. The trial Court dismissed the petition on the ground that the first respondent pleaded the material facts.

6. At the time of arguments, both counsel in all fairness submitted that the trial Court passed the order without taking into consideration the scope of Order VII Rule 11 CPC. Both counsel further submitted that it is a fit case to remand the matter to the trial Court for fresh disposal.

7. In view of the submissions made by both the counsel, this Court is not inclined to go into the merits of the main case.

8. In the result, the Civil Revision Petition is allowed setting aside the order dated 05.07.2017 in I.A.No.239 of 2017 remanding the matter to the trial Court. The trial Court is hereby directed to dispose of I.A.No.239 of 2017 afresh taking into consideration the pleadings of both parties as well as the scope of Order VII Rule 11 CPC. The trial Court is hereby directed to dispose of the petition within two months from the date of receipt of copy of the order. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

T.SUNIL CHOWDARY, J

Dt:23.11.2018

Rns