

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CIVIL RIMINAL PETITION No.5266 of 2017

ORDER:

This Civil Revision Petition is filed by petitioners/defendants aggrieved by the order dated 29.08.20 in I.A.No. 138 of 2017 in O.S.No. 13 of 2017 passed by the learned Junior Civil Judge, Wanaparthy, dismissing the petition filed by the defendants under Order 7 Rule 11-(d) r/w 151 C.P.C, seeking to reject the plaint as it is barred, as the trial Court has no jurisdiction to entertain the suit in view of Section 23 of the Society Registration Act, 2001 (for brevity 'the Act').

2. Heard Sri Hari Sreedhar, learned counsel for petitioners/defendants and Sri K. Srinivas, learned counsel for respondent/plaintiff.

3. As can be seen from the impugned order, the learned trial Judge held that the issue cannot be decided and the same is a question to be considered after the trial. With that observation the petition was dismissed.

4. Now the submission of learned counsel for revision petitioner, *inter alia* is that the jurisdiction is one of the important issues and can be raised by the party, the Court has to give its finding on the aspect of jurisdiction at the earliest and it cannot relegate to the post trial stage. On this aspect he relied upon the judgment of the Apex Court reported in **Azhar Hussain v. Rajiv Gandhi**¹, wherein it was observed by the Hon'ble Apex Court that the sword of Damocles need not be kept hanging over his head unnecessarily without point

¹ AIR 1986 SC 1253

or purpose. Even in an ordinary civil litigation the Court readily exercises the power to reject a plaint if it does not disclose any cause of action.

5. On hearing the parties and perusal of the respective pleadings in the suit, this Court is of the opinion that the trial Court ought to have decided the issue of jurisdiction in terms of Section 23 of the Act propounded by the learned counsel for revision petitioners/defendants and Section 9 of Code of Civil Procedure submitted by the learned counsel for respondent/plaintiff without relegating the same to the post trial stage.

6. In the result, the Civil Revision Petition is allowed and the order in I.A.No. 138 of 2017 in O.S.No. 13 of 2017 is set aside with a direction to the trial Court to hear both the parties and pass an order on merits deciding the jurisdiction of the trial Court and then proceed further in the matter expeditiously but not later than two months from the date of receipt of a copy of this order.

As a sequel there to, miscellaneous applications, pending if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 08.08.2018
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