

HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION No. 6666 of 2017

ORDER:

The present application came to be filed under Article 227 of the Constitution of India, assailing the order dated 27.10.2017 passed in I.A.No. 834 of 2017 in O.S.No. 545 of 2014, on the file of the First Additional Junior Civil Judge, Rajamahendravaram, East Godavari district, wherein the application filed under Order 7 Rule 11(b) and Section 151 of C.P.C was rejected, as the relief claimed by the respondent/ plaintiff is undervalued.

2. The respondent/ plaintiff filed O.S.No. 545 of 2014 to declare that the plaintiff is the sole proprietor of Sri Satya Sai Narasimha Gas Agency, Korukonda and for consequential injunction restraining the defendants from interfering with the business being carried on by the plaintiff. After considering the arguments advanced by both sides, the trial court held as under:

“...The reliefs claimed and the correctness of the court fee paid on the reliefs claimed, which are complex issues of fact and law cannot be prejudged unless the main issues are decided on merits after full fledged trial. Thus, the questions raised by the petitioner/ 4th defendant in this interlocutory application have to be necessarily adjudged only after full fledged trial and not in the present application.”

Challenging the same, the present C.R.P is filed.

3. Sri Sai Gangadhar Chamarthi, learned counsel appearing for the petitioners would contend that the issue as to reduction of the claim can be raised at any time and it is not necessary that the same requires to be raised at the earliest point of time.

4. On the other hand, the learned counsel for the respondents, Sri Ch. Samson Babu would contend that in view of the judgment of this Court in O. BHASKARA RAO v. A. SAIBABU¹ and VALLURI SIVA PRASAD v. VALURI KURIMINAIDU², determination of issue regarding the value for the purpose of determining the jurisdiction of courts after commencement of trial, is illegal. He further submits that the impugned order was passed in October, 2017 and by now, the arguments must have also been advanced by both sides. However, this fact is denied by the learned counsel for the petitioners.

5. A reading of the order passed in I.A.No. 834 of 2017 makes it clear that an observation was made by the trial court that the issue raised, being a complex one, requires to be considered after full-fledged trial. A perusal of the impugned order would also show that the issue whether the suit is under-valued, was not decided and the order came to be passed only on the ground of delay in filing the said application.

6. Having regard to the above, the present C.R.P is disposed of, permitting the petitioners to advance arguments even in relation

¹ 1993 (2) ALT 475

² 1998 (5) ALD 1

to undervaluation of the suit, in case the arguments are not yet advanced, in which event, the trial court shall consider the same, uninfluenced by the observations, if any, made in the impugned order.

JUSTICE C. PRAVEEN KUMAR

19.01.2018
DMG

