

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.2597 of 2013

ORDER :

This Civil Revision Petition is filed challenging the order dt.31-01-2013 in I.A.No.1041 of 2012 in O.S.No.134 of 2012 of the II Senior Civil Judge, City Civil Court, Hyderabad.

2. Petitioners herein are defendants in the suit, which was filed by respondent against them seeking damages for publication of a defamatory article in news paper on 31-12-2008.

3. It was the contention of the respondent that in the article published by the petitioners, it was mentioned that in 2008 A.C.B. raids had occurred and Rs.7.00 crores was recovered, of which half amounts belong to respondent. He contended that by such publication, his reputation was lowered in the eye of the Society and so he is entitled to damages.

4. Petitioners filed I.A.No.1041 of 2012 under Order VII Rule 11 C.P.C. to reject the plaint on the ground that the publication said to be defamatory of respondent had been made on 31-12-2008, that the period of limitation prescribed for filing suits for damages for libel under Article 75 of the Limitation Act, 1963 (for short "the Act") was one year from the date of publication of libel; it ended on 31-12-2009; and the suit filed in 2011 is barred by limitation.

5. Respondent filed counter-affidavit opposing the said application, and contented that he filed the suit within limitation and though publication in question was made on 31-12-2008 by petitioners, he had got issued a legal notice on 05-10-2011 and the period of limitation is three years.

6. By order dt.31-01-2013, the Court below dismissed the said application. It referred to the contentions of the parties and observed that the limitation aspect is a mixed question of fact and law and the case of the petitioners did not fall under Order VII Rule 11 C.P.C. and so the plaint cannot be rejected. It observed that whether the suit is barred by time or not is to be decided during trial.

7. Assailing the same, this Revision is filed.

8. Learned counsel for petitioners contended that under Article 75 of the Act, a suit for damages for defamation/libel is to be filed within one year from the date of publication and the present suit filed in December, 2011 is barred by limitation and so the plaint ought to be rejected.

9. Learned counsel for respondent refuted the said contention and supported the order passed by the Court below.

10. I have noted the contentions of both sides.

11. Article 75 of the Act prescribes limitation for seeking compensation of libel as one year commencing from the date when

the libel is published. Since in the instant case, the defamatory article was published by the petitioners on 31-12-2008, the period of limitation for filing suit for damages would be one year from the said date and would certainly end by 30-12-2009. Therefore, the suit filed in December, 2011 would be barred by limitation.

12. The plea of respondent that the period of limitation would be three years from the date of publication cannot be accepted since there is no other Article in the Schedule to the Act, which is attracted other than Article 75 of the Act.

13. Accordingly, the Civil Revision Petition is allowed; the order dt.31-01-2013 in I.A.No.1041 of 2012 in O.S.No.134 of 2012 of the II Senior Civil Judge, City Civil Court, Hyderabad is set aside; the said I.A. is allowed; and the plaint in O.S.No.134 of 2012 is rejected. No costs.

14. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 09-04-2019

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