THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition Nos.6885 and 6900 of 2018

COMMON ORDER:-

Petitioner and respondent Nos.2, 3, 4, 5, 6, 7, 8, 9 and 10 are parties in both these Revisions and a common question arises for consideration in these Revisions and so they are being disposed of by this common order.

2. Though Sri Uppala Venkateswara Rao filed Vakalat on behalf of respondents No.1 to 3 in both the Revisions, there is no representation on his behalf today as well as on 19.06.2019 when the matter was previously listed. According to the counsel for the petitioner, respondent Nos. 4 to 11 in C.R.P.No.6885 of 2018 and respondents No.4 to 18 in C.R.P.No.6900 of 2018 are not necessary parties to the respective Revisions.

3. It is not in dispute that the petitioner herein had filed O.S.No.964 of 2012 before the VIII Additional District Judge, Ranga Reddy District at L.B.Nagar, for dissolution of partnership firm-M/s.Vaishnavi Homes (1st respondent in C.R.P.No.6900 of 2018) and he had also filed O.S.No.858 of 2012 in the same Court for dissolution of the firm – M/s.Vaishnavi Estates and Developers (1st respondent in C.R.P.No.6885 of 2018). It is his contention in both the suits that the respondent Nos.2 to 4 who are partners in both the firms have diverted funds of the firm and invested them in other assets, which they have not disclosed to him.

4. He filed I.A.No.508 of 2018 in O.S.No.858 of 2012 and I.A.No.760 of 2018 in O.S.No.964 of 2012 invoking Order XI Rule

14 C.P.C. to direct respondent Nos.1 to 3 in both the Revisions to produce certain documents in relation to the respective 1st respondent-firms and also in relation to the Income Tax Returns filed by respondents No.2 and 3 individually along with Bank account details and Books of Accounts for the period 2003-04 to 2012-13 in I.A.No.508 of 2018 and for the period 2005-06 to 2012-13 in I.A.No.760 of 2018. He contended that he had issued notices to respondents No.1 to 3 to produce the said documents but they did not produce it and so he is seeking a direction to respondents No.1 to 3 to produce and deposit the said documents, in original, which are in their custody.

5. Counter affidavit was filed on behalf of the 1st respondent in both the cases stating that in regard to the respective 1st respondent-firms, three (3) documents are readily available, that other documents have been misplaced and are not readily available and they would be placed before the Court as and when they are discovered. They also stated that the documents sought by the petitioner in respect to the personal Income Tax details etc., of defendants No.2 and 3 are in fact one and the same and they are also part and parcel of the documents sought by the petitioner with regard to respective respondent No.1-firms.

6. By two separate orders dated 03.10.2018 the Court below partly allowed I.A.No.508 of 2018 and I.A.No.760 of 2018 and directed respondents No.1 to 3 to produce only documents No.1 to 4 in relation to the respective 1st respondent-firms, but declined to direct the respondents No.1 to 3 to produce the other documents which are personal to respondents No.2 and 3 (i.e.) their Income

Tax Returns etc., on the ground that the documents sought by the petitioner are same as the documents in relation to the respective firms.

7. Assailing the same, these Revisions are filed.

8. It is the contention of the Counsel for the petitioner that it is incumbent on the part of the respondents to produce not only the documents relating to the respective 1st respondent-firms but also their personal Income Tax details which have been sought in the applications I.A.No.508 of 2018 and I.A.No.760 of 2018 and the Income details individually of respondents No.2 and 3 cannot be identical with that of the respective firms.

9. I find considerable force in this submission.

10. Under Income Tax Law not only firms are assessable to tax but partners in the firms would also have to file their personal Income Tax Returns and they cannot say that the Returns filed by them in respect of the firms would have the same details as their personal Income Tax Returns.

11. When it is the allegation of the petitioner that funds of the firms have been diverted by respondents No.2 and 3 for their exclusive use, unless the documents sought by the petitioner relating to the personal Income Tax details etc., of respondents No.2 and 3 are also produced, the truth will not come out.

12. Therefore, both the Revisions are allowed and I.A.No.508 of 2018 in O.S.No.858 of 2012 and I.A.No.760 of 2018 in O.S.No.965 of 2012 are allowed in toto and the respondents No.1 to 3 are

directed to submit to the Court all the documents sought by the petitioner in the respective applications without exception.

13. Accordingly, both the Civil Revision Petitions are allowed. No order as to costs. Consequently, miscellaneous petitions if any pending in the Civil Revision Petitions shall stand dismissed.

M.S.Ramachandra Rao, J

31st July, 2019

smr