

THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY
CIVIL REVISION PETITION No. 2935 OF 2014

Dated:31-10-2014

Between

M/s. Dilip RLD Text Prints (P) Ltd., rep., by its Managing Director and two others

... PETITIONERS

AND

M/s. Bombay Colour Agency, rep., by R. Chandra Shekar Rao, O/o.3-4-192,
Tobacco Bazar, Secunderabad

.. RESPONDENT

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ORDER:

The respondent filed O.S No. 32 of 2014 against the petitioners in the Court of XXVII Additional Chief Judge, City Civil Court, Secunderabad for recovery of a sum of Rs.31,66,413/-. Summary procedure under Rule 5 of Order XXXVII CPC was invoked. On receipt of summons in the suit, the petitioners filed I.A No.358 of 2014, with a prayer to grant leave to defend themselves in the suit. The I.A was opposed by the respondent. The trial Court allowed the I.A through order dated 05-08-2014, subject to the condition that the petitioners deposit a sum of Rs.10,00,000/- to be paid within 30 days from the

date of order. The same is challenged in this revision.

Heard Sri T. Venkat Reddy, learned counsel for the petitioners and Sri D. Hanumanth Rao, learned counsel for the respondent.

It is no doubt true that the mutual rights and liabilities of the parties in a suit need to be decided only at the end of the suit, after trial. However, where summary procedure under Rule 5 of Order XXXVII CPC is invoked, the burden is straightaway placed on the defendant to satisfy the Court as to why the leave to defend be not denied. Depending on the nature of contentions that may be advanced by the defendant, the Court may either grant the right to defend absolutely or deny it or grant it, subject to certain conditions. In the instant case, the trial Court was of the view that as against the suit claim of Rs.31,66,413/-, the petitioners can be required to deposit a sum of Rs.10,00,000/-. Though it may be some burden on the petitioners at this stage, it cannot be said that the order passed by the trial Court is erroneous having regard to the nature of the transaction. This Court is of the view that the burden of the petitioners can be reduced to Rs.7,50,000/-.

Hence, the C.R.P is allowed reducing the amount to be deposited by the petitioners as a condition precedent to defend themselves to Rs.7,50,000/-. They are granted four weeks time from today for payment of the same. It is also directed that the amount shall remain in deposit to the credit of the suit till the disposal of the suit.

The miscellaneous petitions filed in this revision shall also stand disposed of. There shall be no order as to costs.

L. NARASIMHA REDDY, J

31-10-2014
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