

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**FRIDAY, THE FOURTEENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SRI JUSTICE A.VENKATESHWARA REDDY

CIVIL REVISION PETITION NO: 2684 OF 2011

Petition under section 115 of Civil Procedure Code, against/aggrieved by the Order dated. 18-1-2011 in Unregistered O.S.SR No. 1841 of 2010 on the file of the Senior Civil Judge, Bhongir.

Between:

1. Chillara Bharathamma W/o Anjaiah, aged about 39 years, Occ: agriculture labour
 2. Chillara Matchyagiri s/o Anjaiah, aged about 21 years, occ: Student
 3. Chillara Mamatha d/o Late Anjaiah, aged about 19 years, Occ: student
- Petitioners/Plaintiffs**

AND

1. In Re
2. The Chairman cum Managing Director, APCPDCL, corporate Officer, Near Mint Compound, Hyderabad
3. The Superintending Engineer (Operation), APCPDCL, Near Bus Stand, Nalgonda town & District
4. The Divisional Engineer (operations), APCPDCL, Bhongir town and Mandal, Nalgonda District.
5. The Asst., Divisional Engineer (Operation), APCPDCL, Ramannapet, Nalgonda District.
6. The Asst, Divisional Engineer (Operation), S APCPDCL, Valigonda village and Mandal, Nalgonda District

..RESPONDENTS/defendants

Counsel for the Petitioner(s):SRI. L PRABHAKAR REDDY

Counsel for the Respondents:

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE A. VENKATESHWARA REDDY

C.R.P.No.2684 of 2011

ORDER:

This Civil Revision Petition is filed by the petitioners/ plaintiffs assailing the order dated 18.01.2011 in unregistered OS (SR) No.1841 of 2010 on the file of the learned Senior Civil Judge, Bhongir.

2. As per the order impugned, the plaint was returned with an observation that the limitation is covered under Article 82 of the Limitation Act and the suit is filed beyond two years from the date of fatal accident which took place on 08.10.2008.

3. Perused the averments of the plaint wherein the plaintiffs have pleaded that the limitation is covered under Article 113 of the Limitation Act and not under Article 82 of the Limitation Act.

4. The learned counsel for the revision petitioner would submit that at the time of scrutiny, the Registry/ Section is not expected to look into the merits or otherwise

of the pleadings and the plaintiffs have pleaded that the suit is covered by Article 113 of the Limitation Act, which is a residuary provision and the limitation is three years. Whereas, the trial Court instead of registering the suit and issuing summons to the defendants, has taken a view that the suit is covered by Article 82 of the Limitation Act.

5. The learned counsel the revision petitioners/ plaintiffs relied upon the principles laid in **Thanamki Prasad v. Guntamadugu Pullamma and others**¹ wherein this Court has held that at the time of scrutiny of case, no Court can appreciate the merits of case and reject the plaint on the ground that the case of the plaintiff is not well founded or devoid of merits. He has also relied on the principles laid in **Kudumula Kishore Reddy v. Kudumula Krishna Reddy and others**² wherein it was dealt with Order 7, Rule-11 of CPC rejection of the plaint, but apparently on perusal of the order impugned, the plaint is only returned and not rejected.

¹ 2005 (4) ALD 247

² 2010 (5) ALD 232

6. The learned counsel for the revision petitioners/ plaintiffs would further submit that though the word is mentioned is 'returned', in fact it amounts to rejection of the plaint, since the Section has refused to assign number to the suit on the ground that the suit is barred by limitation.

7. Therefore, when the facts of the case on hand are tested on the touch stone of the principles laid in the above decisions, the answer is in the positive. The trial Court is not expected to step into the shoes of opposite party and to reject or return the plaint on the ground that it is not well founded or devoid of merits. More particularly when the plaintiffs have taken a specific plea that the limitation in respect of the suit is covered by the residuary provision under Article 113 of the Limitation Act, the Court is not expected to apply the principles laid under Article 82 of the Limitation Act and to reject the plaint. Further, it is for the defendants to raise all such pleas on appearing before the trial Court. In that view of the matter, in my

considered opinion, the trial Court has committed a jurisdictional error in returning the plaint.

8. In the result, the Civil Revision Petition is allowed. The order impugned dated 18.01.2011 in unregistered OS (SR) No.1841 of 2010 on the file of the learned Senior Civil Judge, Bhongir, is hereby set aside. The trial Court is directed to register the suit if it is otherwise in order and it is for the defendants to raise all such pleas on appearance before the trial Court. Registry is directed to return the material papers, if any filed by the revision petitioners / plaintiffs under proper acknowledgement. However, in the circumstances of the case, there shall be no order as to costs.

As a sequel, interlocutory applications, if any pending in this civil revision petition shall stand closed.

//TRUE COPY//

Sd/-G.SIREESHA
ASSISTANT REGISTRARS

SECTION OFFICER

To,

1. The Senior Civil Judge, Bhongir.
2. One CC to Mr. L PRABHAKAR REDDY Advocate [OPUC]
3. Two CD Copies

✓

HIGH COURT

AVRJ

DATED:14/10/2022



ORDER

CRP.No.2684 of 2011

ALLOWING THE CRP WITHOUT COSTS.

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