

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1376 OF 2017
(Arising out of SLP(C) No.10852 of 2016)

ONE PLACE INFRASTRUCTURE PVT LTD

APPELLANT(s)

VERSUS

VIRENDRA SHANKER TIWARI

RESPONDENT(s)

O R D E R

Leave granted.

We have heard learned counsel for the parties.

It is well-settled that an application under Order VII, Rule 11 of the Civil Procedure Code, 1908 (CPC) for rejection of the plaint can be considered only on the basis of the averments made in the plaint.

The objection taken by the respondent before us is that the document relied on by the plaintiff was an unregistered document and that was the defence put forward by the respondent for dismissal of the suit.

That being the position, in our opinion, the High Court was in error in directing reconsideration of the application filed by the respondent under Order VII, Rule 11 of the CPC since the application was not based on the averments made in the plaint.

Consequently, we set aside the order passed by the High Court and direct the Trial Court to proceed with the matter in accordance with law.

The appeal is disposed of.

We make it clear that any observation made by the High Court will not come in the way of the disposal of the suit.

.....J.
(MADAN B. LOKUR)

.....J.
(PRAFULLA C. PANT)

NEW DELHI
FEBRUARY 03, 2017

ITEM NO.53

COURT NO.5

SECTION XI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).10852/2016

(Arising out of impugned final judgment and order dated 09/03/2016 in CR No. 30/2016 passed by the High Court of Judicature at Allahabad)

ONE PLACE INFRASTRUCTURE PVT LTD

Petitioner(s)

VERSUS

VIRENDRA SHANKER TIWARI

Respondent(s)

(with interim relief and office report)

Date : 03/02/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Mr. M. C. Dhingra, AOR
Mr. D.K. Singh, Adv.
Mr. Piyush Kant Roy, Adv.
Ms. Gauri Neo Rampal, Adv.

For Respondent(s) Mr. Praveen Kumar Rai, Adv.
Mr. Hemal Kiritkumar Sheth, AOR
Mr. Faridi, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is disposed of in terms of the signed order.

(SANJAY KUMAR-I)
AR-CUM-PS

(JASWINDER KAUR)
COURT MASTER

(Signed order is placed on the file)