

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

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CIVIL REVISION PETITION No.3872 of 2015

Between:

Thurpu Bugga Reddy.

....Petitioner

and

Nandini and others.

....Respondents

JUDGMENT PRONOUNCED ON : 18.09.2015

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgments?
2. Whether the copies of judgment may be : No
Marked to Law Reporters/Journals?
3. Whether Their Ladyship/Lordship wish to : No
see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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ORDER:

The petitioner herein is defendant No.4 in O.S.No.2 of 2015 on the file of the learned Judicial Magistrate of First Class, Kodangal. Respondent Nos.1 to 3 herein filed the above suit against respondent Nos.4 to 6 and the petitioner herein seeking partition and separate possession with 1/5th share to each of the plaintiffs in the suit land situated at Desaipally Village, Shivara of Damaragidda Mandal. When the suit was coming up for framing the issues, the petitioner filed the present application in I.A.No.120 of 2015 under Order 7 Rule 11 of CPC seeking rejection of the plaint against him, and the same was dismissed

by the Court below on 17.08.2015. Challenging the same, the present Civil Revision Petition is filed.

A perusal of the affidavit filed in support of the application does not indicate the grounds on which the petitioner sought rejection of the plaint against him. The issues raised by him in the affidavit are triable issues and they do not attract any grounds in Rule 11 Order 7 CPC. In those circumstances, the learned Junior Civil Judge, Kodangal, dismissed the application by order dated 17.08.2015 holding as follows:

“16. After scrutinizing the arguments advanced by the learned counsels and in view of the facts and circumstances of the case, this Court is of the view that the dispute as to the rights of Defendant No.1, in consequence, the rights of plaintiffs and Defendant No.4 cannot be obliterated without proper adjudication. When the suit is contested on hearing from both the sides, no prejudice will be caused to any party, particularly Defendant No.4, who is alleging possession and enjoyment of the suit property. Hence, it is needless to say, when reasonable disputes triable by this Court were raised in the plaint, the plea of rejection of plaint is not sustainable. This point is answered in favour of Respondents/plaintiffs and against the Petitioner/ Defendant No.4.”

I have carefully perused the affidavit filed by the petitioner and also asked the learned Counsel for the petitioner to show whether any of the grounds mentioned in Order 7 Rule 11 of CPC were mentioned in the affidavit. The averments made in the affidavit filed in support of the application require trial in the suit and the suit cannot be thrown out by invoking the grounds made available under Order 7 Rule 11 of CPC.

In the circumstances, the order passed by the trial Court is perfectly legal and no error is committed by the trial Court. In view of the same, the Civil Revision Petition is liable to be dismissed and the same is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

18.09.2015

VS