

HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION No.1302 of 2015

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ORDER: (Per Justice R. Subhash Reddy)

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by defendant No.1 in O.S.No.704 of 2012 on the file of the XXV Additional Chief Judge, City Civil Court, Hyderabad, aggrieved by the order dated 26.02.2014 passed in I.A.No.318 of 2014.

By the aforesaid order, the trial Court dismissed the I.A., filed by the petitioner-defendant No.1 to reject the plaint filed by the respondent under Order 7 Rule 11 CPC.

Order 7 Rule 11 CPC reads as under:

“11. Rejection of plaint.- The plaint shall be rejected in the following cases:—

- (a) where it does not disclose a cause of action;
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the court to correct the valuation within a time to be fixed by the court, fails to do so;
- (c) where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the court to supply the requisite stamp paper within a time to be fixed by the Court, fails to do so;
- (d) where the suit appears from the statement in the plaint to be barred by any law;
- (e) where it is not filed in duplicate;
- (f) where the plaintiff fails comply with the provision of Rule 9.”

The petitioner is a company which is engaged in the business of manufacturing and marketing of agricultural machinery which

includes sprayers under the registered trademarks REKAHA-F-708 and REKHA bearing Nos.1452738 and 1452739. The aforesaid I.A., is filed mainly on the ground that patent granted in favour of the respondent-plaintiff has been revoked and also on the ground that earlier respondent filed O.S.No.252 of 2008 in which I.A.No.1443 of 2008 is filed under Order 39 Rules 1 and 2 CPC and the same was partly allowed; as such, O.S.No.704 of 2012 cannot be maintained.

A reading of the provision under Order 7 Rule 11 CPC makes it clear that it provides rejection of plaint in certain cases. It is clear that such rejection can be sought only when the plaint does not disclose cause of action or the relief claimed is undervalued and also where such suit is barred by any law. From the allegations made by the petitioner herein, no case is made out for rejection of the plaint. The allegations, if proved, may be good grounds to non-suit the plaintiff after full-fledged trial, but on the allegations made, this Court is also of the view that it is not a fit case for rejection of plaint in exercise of powers under Order 7 Rule 11 CPC.

In view of the findings recorded by the trial Court, no interference is called for with the impugned order.

The Civil Revision Petition is accordingly dismissed. No order as to costs.

As a sequel, miscellaneous petitions if any pending in the C.R.P., stand closed.

R. SUBHASH REDDY, J

5th June, 2015

MRR