

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.1407 OF 2015

AND

C.R.P.M.P.NO.2999 OF 2015 IN C.R.P.NO.1407 OF 2015

DATED 2nd JULY, 2015

Between:

Smt. Veeramallu Tejaswi and others .. Petitioners

and

Patchipulusu Veerabhadra Rao and others .. Respondents

THE HON'BLE SRI JUSTICE SANJAY KUMAR
CIVIL REVISION PETITION NO.1407 OF 2015
AND
C.R.P.M.P.NO.2999 OF 2015 IN C.R.P.NO.1407 OF 2015
COMMON ORDER

This Civil Revision Petition arises out of O.S.S.R.NO.1308 of 2015 on the file of the learned Senior Civil Judge, Tadepalligudem. By docket order dated 12.03.2015, the Court below directed the suit to be numbered only if Conditions 4 and 5 in the Memorandum of Understanding (MoU) dated 29.11.2014 were complied with and the valuation of the suit with respect to the Plaint A schedule property was enhanced to Rs.10,00,000/-. Aggrieved by these conditions, subject to which the suit was to be registered, the plaintiffs in the suit are before this Court by way of this Civil Revision Petition under Article 227 of the Constitution.

As the suit is yet to be registered, this Court does not deem it necessary to put the respondents/defendants on notice.

The subject suit was filed for a permanent injunction restraining the defendants from interfering with the supervision of the Plaint A schedule property – Venkateswara Institute of Science & Information Technology, an Engineering College, till the plaintiffs were admitted as members as per the MoU dated 29.11.2014 and further, to restrain them from taking any policy decisions as to the management of the said college and encashing from or operating the Plaint B schedule accounts with the Indian Bank, Tadepalligudem, till an Administrator/ Receiver was appointed by the Court.

For grant of the permanent injunction as aforestated, the plaintiffs notionally valued the suit at Rs.2,00,000/-. As regards the prayer for an injunction *vis-à-vis* supervision of the Plaint A schedule college, the same was notionally valued at Rs.1,00,000/-.

A copy of the MoU dated 29.11.2014 was sought to be placed on

record by way of C.R.P.M.P.No.2999 of 2015 filed in this case. The petition is ordered and the said MoU is taken on record.

Perusal of this MoU reflects that the defendants, being the first party thereto, agreed to transfer to the plaintiffs, the second party thereto, the educational society formed by them along with its assets, including Venkateswara Institute of Science & Information Technology, the Engineering College, for valuable consideration. Condition 2 of the MoU recorded the amounts said to have been remitted by the plaintiffs as a preliminary payment. Condition 3 stated that the plaintiffs were to be admitted as members of the General Body of the educational society formed by the defendants as per its bye-laws on or before 31.12.2014. Condition 4 stated that on or before such admission, the plaintiffs were to remit a sum of Rs.53,00,000/- to the defendants. Condition 5 stated that the plaintiffs were also to arrange for an additional payment of Rs.2.00 crore and pay the same as directed by the defendants.

The Court below, by the docket order dated 12.03.2015, required the plaintiffs to comply with the aforesaid Conditions 4 and 5 as a condition precedent for numbering their suit.

Be it noted that at that stage, the defendants were not even put on notice and the very genuineness and validity of the MoU dated 29.11.2014 was still open to question. Further, the Court below was only dealing with the plaintiffs' claim for an injunction. No doubt, such prayer was founded on the MoU dated 29.11.2014 but the plaintiffs had not sought specific performance of the same. The plaintiffs' prayer for an injunction therefore had to be examined on its own merits and it was not for the Court below to require them to comply with their purported side of the bargain under the said MoU as a condition precedent for examining their claim for an injunction.

At the stage of registration of the plaint, the Court below could have either returned the plaint under Order 7 Rule 10 CPC, if it found that it had no jurisdiction, or rejected it under Order 7 Rule 11 CPC on any of the grounds set out therein. Requiring the plaintiffs to abide by and comply with the conditions of a MoU which was the basis for their claim

for an injunction does not fall within the scope of the grounds stipulated in Order 7 Rule 11 CPC.

No doubt, Order 7 Rule 11(b) CPC authorized the Court below to reject the plaint if the relief claimed was undervalued and the plaintiffs, despite being required by the Court to correct such valuation within a time frame, failed to do so. In the present case, however, the Plaint A schedule related to an engineering college and the injunction sought was with regard to interference with its supervision till admission of the plaintiffs as members. The Court Fees thereon was paid upon a notional valuation under Section 26(c) of the Andhra Pradesh Court Fees and Suits Valuation Act, 1956 (for brevity, 'the Act of 1956').

Section 26(c) of the Act of 1956 deals with injunctions in any case other than those falling under Sections 26(a) and 26(b) thereof, irrespective of whether the subject matter had market value or not, and the fees is to be computed on the amount at which the relief sought is valued in the plaint or at which such relief is valued by the Court, whichever is higher. The plaintiffs claimed that the injunction sought by them fell under the ambit of Section 26(c) of the Act of 1956 and notionally valued the relief claimed as regards the Plaint A schedule college at Rs.1,00,000/- and paid Court Fees thereon accordingly. In the event the Court below did not agree with such valuation, it necessarily had to go into the question of what the correct valuation would be and only after such exercise, require payment of higher Court Fees.

In the present case, the Court below baldly ordained that the Plaint A schedule valuation should be enhanced to Rs.10,00,000/-. No reasons are forthcoming from the docket order dated 12.03.2015 as to how this figure was plucked out of thin air without any basis. It cannot be the *ipse dixit* of the Court to effect valuation under Section 26(c) of the Act of 1956 and there must necessarily be an exercise in that regard, upon due notice and hearing to the party concerned. In the light of the failure by the Court below in undertaking such an exercise, fixing of the valuation at Rs.10,00,000/- cannot be countenanced. Thus, neither of the conditions

fixed by the Court below as a condition precedent for registering the plaint can be accepted.

In **MOHD. OSMAN ALI V/s. SECOND JUNIOR CIVIL JUDGE, CITY CIVIL COURT, HYDERABAD**^[1], this Court held that it was not the trial Court's duty to examine at the stage of scrutiny and registration of the suit whether the plaintiff had made out his case for grant of relief. Again, in **DANTALA PRAVEEN V/s. BAIRABOINA VEERAMMA**^[2], this Court held that at the stage of presentation of the suit, the trial Court can reject the plaint only if it is satisfied that one or more of the grounds stipulated in Order 7 Rule 11 CPC are established. This Court further observed that it is not the function of the trial Court to involve itself in a minute examination of the matter and reject the plaint at the threshold as such a procedure is not sanctioned by law.

On the above analysis, this Court finds that the conditions precedent set by the Court below for registration of the plaint do not hold water. The docket order dated 12.03.2015 is therefore set aside.

This order shall however not preclude the Court below from undertaking and examining the valuation of the Plaint A schedule property at the appropriate stage and the correctness of the Court Fees paid thereon.

The Civil Revision Petition is allowed. C.R.P.M.P. No. 2999 of 2015 is ordered. Other miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR,J

2nd JULY, 2015

Note: Issue CC in one week.
B/o Svv

^[1] 2010(5) ALT 411

[\[2\]](#) 2011(4) ALD 775