

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.3386 OF 2016

O R D E R

The petitioner is the defendant in O.S.No.1411 of 2015 on the file of the learned XV Additional District Judge, Ranga Reddy District, Kukatpally at Miyapur. She filed I.A.No.77 of 2016 in the said suit under Order 7 Rule 11 CPC seeking rejection of the plaint. By order dated 12.04.2016, the trial Court dismissed the I.A. Aggrieved thereby, she is before this Court by way of this revision filed under Article 227 of the Constitution.

Heard Sri Midhun Kumar Allu, learned counsel for the petitioner-defendant, and Sri K.V.Janardhan Rao, learned counsel for the respondent-plaintiff.

Perusal of the plaint in the subject suit reflects that the respondent-plaintiff claimed to be the power-of-attorney holder of one Jeethaiah, who was the owner and possessor of an extent of Ac.10.00 guntas in Sy.No.322 situated at Dharani Nagar, Kukatpally Village, Balanagar Mandal, Ranga Reddy District, which was converted into plots. The respondent-plaintiff stated that he had executed a registered sale deed in favour of the petitioner-defendant on 23.01.2015 in relation to one such plot, being Plot No.88, admeasuring 150 square yards. The respondent-plaintiff stated that the sale consideration for the plot was Rs.22,50,000/-, out of which the petitioner-defendant paid Rs.7,00,000/- by way of a cheque, which was however dishonoured upon presentation. The respondent-plaintiff averred that the petitioner-defendant was postponing payment on one pretext or the other. A crucial fact brought out by the respondent-plaintiff himself is that Jeethaiah, his principal and

the owner of the land, filed O.S.No.192 of 2015 before the learned II Additional District Judge, Ranga Reddy District, against the respondent-plaintiff and the petitioner-defendant, seeking cancellation of the sale deed executed in favour of the petitioner-defendant by the respondent-plaintiff, as his power-of-attorney holder. The respondent-plaintiff further stated that Jeethaiah withdrew the suit and got it dismissed as 'not pressed' on 18.12.2015. Having admitted this vital fact, the respondent-plaintiff stated that as the petitioner-defendant had not paid him the entire sale consideration, the sale was liable to be nullified and sought cancellation of the registered sale deed executed by him, being Document No.530 of 2015 dated 23.01.2015, in favour of the petitioner-defendant.

Significantly, the subject suit was not filed by the respondent-plaintiff as the power-of-attorney holder of Jeethaiah but in his own name independently.

It was in the background of the aforesaid facts that the petitioner-defendant claimed before the trial Court, by way of the subject I.A., that the provisions of Order 7 Rule 11 CPC would stand attracted, warranting rejection of the plaint.

Sri Midhun Kumar Allu, learned counsel for the petitioner, would assert that the petitioner-defendant compromised the matter with the owner, Jeethaiah, and paid him the necessary sale consideration and that was the reason why Jeethaiah got the suit, O.S.No.192 of 2015, filed by him dismissed as 'not pressed'. Learned counsel would further contend that the power-of-attorney holder had no independent right in the land, whereby he could maintain the subject suit in his own name.

Per contra, Sri K.V.Janardhan Rao, learned counsel for the respondent-plaintiff, would contend that as the suit filed by Jeethaiah was dismissed, there is no prohibition in law for the respondent-plaintiff, being the lawful power-of-attorney holder of Jeethaiah, to maintain the subject suit.

Order 7 Rule 11 CPC postulates to the effect that the plaint should be rejected, *inter alia*, when it does not disclose a cause of action. In the present case, it is not in dispute that the respondent-plaintiff is not the owner of the subject land. He executed the sale deed, cancellation of which is now sought, only in the capacity of a power-of-attorney holder. The respondent-plaintiff therefore had no locus to independently maintain a suit in his own name. That apart, the plaint clearly discloses that his principal, Jeethaiah, the owner of the land, independently filed a suit not only against the petitioner-defendant but also against him, the respondent-plaintiff, for the very same relief – cancellation of the sale deed executed in favour of the petitioner-defendant by the respondent-plaintiff. The said suit was dismissed as not pressed and it is stated that this was because the petitioner-defendant settled the dispute with the owner, Jeethaiah. Once the principal himself got the suit filed for this very relief dismissed without seeking liberty to file a fresh suit, the respondent-plaintiff, his power-of-attorney holder, cannot stand in a better position.

Further, the fact that the principal, Jeethaiah, also arrayed the respondent-plaintiff as a defendant in the suit filed by him gives rise to a doubt at this stage as to the status of the power-of-attorney executed in his favour by the principal. These aspects, viewed cumulatively, spell out that the respondent-plaintiff had neither locus

nor cause of action to maintain the subject suit. Ignoring these crucial aspects, the trial Court baldly dismissed the I.A.

The civil revision petition is accordingly allowed, holding that the suit, O.S.No.1411 of 2015, on the file of the learned XV Additional District Judge, Ranga Reddy District, Kukatpally at Miyapur, is liable to be rejected under Order 7 Rule 11 CPC. The order under revision is accordingly set aside and the trial Court is directed to take steps accordingly. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

14TH OCTOBER, 2016

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