

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 1031 of 2016

ORDER:

Aggrieved by the order dated 30.12.2015 passed in C.F.No.2173 of 2015 in un-registered O.S. on the file of the Junior Civil Judge, Godavarikhani, the present Civil Revision Petition is filed.

The facts in issue are as under:

The petitioner/plaintiff filed a suit seeking perpetual injunction restraining the defendant, his men and all such other persons claiming through the defendant from interfering with her peaceful possession and enjoyment over the suit schedule land ie. land admeasuring Ac.1.00 in Sy.No. 806/B situated at P.G.Centre Quarters Locality, Godavarikhani, Janagaon Village, Ramagundam Mandal, Karimnagar District.

After perusing the record, the learned Junior Civil Judge rejected the plaint vide docket order dated 30.12.2015 stating that the plaintiff has no locus standi to file the suit and that there is no cause of action to file the suit. While rejecting the plaint, the Junior Civil Judge, Godavarikhani held that on perusal of the documents filed by the plaintiff there is a correction in the Survey No.806/A is altered as B with a black pen. A perusal of

the document would show that the vendor of the plaintiff purchased the property through un-registered agreement of sale and vendor's vendor of the plaintiff agreed that he will register the property at the Sub-Registrar Office, Peddapally, but the property is not transferred or mutated in the name of the vendor of the plaintiff. Without getting any legal right or title over the property the vendor of the plaintiff sold the same to the plaintiff, as such the plaintiff has not acquired any valid right or title over the property since her vendor is not getting any valid right or title to convey the same. The trial Court further held that there is no document to show that the suit schedule property is in possession of the plaintiff.

Admittedly the suit is filed seeking perpetual injunction restraining the defendant from interfering with the possession of the plaintiff over the suit schedule property. Initially the office raised an objection directing the plaintiff to produce relevant documents. The plaintiff produced the documents. After hearing the arguments and perusing the record, the trial Court passed the impugned order rejecting the plaint. Challenging the same the plaintiff preferred the present revision.

Learned counsel for the petitioner submits that the trial Court cannot decide that there is no document to show that the property is in possession of the plaintiff at the time of numbering the suit.

Since the impugned order was passed even before process was issued to the defendant in the suit, it is not necessary to put him on notice in this revision.

A perusal of the material on record would disclose that the Plaintiff executed G.P.A.No.1894 of 2015 in favour Semiti Venkata Swamy, which is a registered one. The plaintiff has acquired the suit property through un-registered agreement executed by one Marri Chandraiah, who acquired the said property through un-registered document dated 08.04.2011 executed by one Neelam Raji Reddy. It is not in dispute that the plaintiff has filed all the original documents mentioned supra along with the plaint. The trial Court observed that in the document the survey No.806/A was altered to 806/B with a black pen.

In ***Mohd. Osman Ali v. Second Junior Civil Judge, City Civil Court, Hyderabad***^[1], this Court observed that when a party files a suit, in accordance with the procedure prescribed under the Code of Civil Procedure and Civil Rules of Practice, it is no part of the duty of the Court to examine, at the stage of scrutiny and registration of the suit, whether the plaintiff has adduced sufficient documentary evidence in support of his prayer in the suit. If the plaintiff fails to file proper material to substantiate his pleas, he will be doing so at his peril. But

the Court cannot, at the scrutiny stage, insist on the plaintiff to file the documents, which, in its opinion, are relevant for granting relief.

In ***Dantala Praveen v. Bairaboina Veeramma***^[2] wherein this Court held that the grounds prescribed in Order VII Rule 11 of the Civil Procedure Code are exhaustive and not merely illustrative. Therefore, unless the Court is satisfied that any of the grounds prescribed by the statute exists, it cannot reject the plaint. At the stage of presentation of the suit, the Court can only insist on strict compliance of the provisions of the C.P.C. and reject the plaint only if it is satisfied that one or more of the grounds mentioned in Order VII Rule 11 of the C.P.C. are present. This Court further held that it is not the function of the trial Court to involve itself in examination of a purported discrepancy in minute manner and reject the plaint on such ground at the threshold. Such a procedure is not sanctioned by law and the Court below has made a perverse approach in rejecting the plaint presented by the plaintiff.

In view of the above judgments referred to above, the approach of the trial Court in going into the merits of the suit claim stating that there is no document that the property is in possession of the plaintiff is incorrect. The trial Court cannot insist upon the plaintiff to produce the documents at the scrutiny stage.

Accordingly, the C.R.P. is allowed. The trial Court is directed to entertain the suit and register the same. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

09.03.2016
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[\[1\]](#) (2010) 4 ALD 273

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