

HIGH COURT OF CHHATTISGARH, BILASPUR**First Appeal No. 425 of 2017**

(Arising out of order dated 27.07.2017 in Civil Suit No.59A/2016 of the learned 1st Additional Judge to the Court of 1st Additional District Judge, Raipur)

- Gopal Chandra Agrawal S/o Late Sadhulal Agrawal, Aged About 58 Years L & T Contractor, R/o Near Krishi Upaj Mandi, P. S. Tilda, District Raipur, Chhattisgarh.

---- Appellant

Versus

1. Chhattisgarh Warehousing Corporation Ltd. Through Managing Director R/o N-3 Avanti Vihar, Raipur, Tehsil & District Raipur, Chhattisgarh.
2. The Chief Commercial Manager, Chhattisgarh Warehousing Corporation Ltd., R/o N-3 Avanti Vihar, Raipur, Tehsil & District Raipur, Chhattisgarh.

---- Respondents

For Appellant	:	Shri G. D. Vaswani, Advocate
For Respondents	:	Shri B. D. Guru, Advocate

Hon'ble Thottathil B. Radhakrishnan, Chief Justice

Hon'ble Shri Justice Sanjay Agrawal

Judgment on Board

Per Thottathil B. Radhakrishnan, Chief Justice

07.12.2017

1. This is an appeal against rejection of plaint under Order VII Rule 11 Code of Civil Procedure (CPC). We have perused the impugned order rejecting the plaint and a copy of the plaint. We have heard the learned Counsel for the Appellant/Plaintiff and the Respondents/Defendants.
2. The substance of the plaint presented before the Court below is founded on the plea that the plaintiff had a contract for loading and unloading etc. with the 1st Respondent Chhattisgarh Warehousing Corporation. The plaintiff alleged, inter-alia, that amounts are due to him that he has been unlawfully blacklisted by the Corporation. He sought a declaratory decree and other consequential and

incidental reliefs. The action of the Corporation in withholding payment was also challenged by the Plaintiff. The trial Court took the view that there is a provision for Dispute Grievances Redressal in terms of Clause XVIII of the contract between the parties. Accordingly, the plaint was rejected. This is under challenge.

3. Clause XVIII (b) of the contract between the parties provides that in case of any dispute arising out of and touching upon the contract, the same will be first referred to the Dispute/Grievances Redressal Committee constituted and functioning at the Head Office of the Corporation, with a view to settle the disputes. If any disputes remain thereafter, the same will be settled in the Court of Law having competent jurisdiction at Raipur / Bilaspur. The Plaintiff pleaded in the plaint that he had moved the Dispute/Grievance Redressal Committee and that the said dispute has not been settled. Obviously, therefore, the Plaintiff had the cause of action preserved to have it adjudicated by the Civil Court in terms of Section 9 of the CPC.
4. The provision in Order VII Rule 11(a) of the CPC is to the effect that the plaint shall be rejected where it does not disclose a cause of action. As rightly argued by the learned counsel for the Appellant, disclosing a cause of action, to sustain the plaint beyond the stage of rejection, is obviously different from establishing a cause of action to the satisfaction of the Court, leading to a decree in favour of the plaintiff, at the conclusion of trial. The duty of the Court at the stage of Order VII Rule 11 CPC is to read the entire plaint, as a whole, to find out whether it discloses a cause of action; and, if it does, then the plaint cannot be rejected by the Court in exercising of power under Order VII Rule 11 CPC. Whether the plaint discloses a cause of action, is a question which has to be gathered on the basis of the averments made in the plaint, in their entirety, taking those averments to be correct. It does not depend upon the admission or denial of the plaint claim by the Defendant. So long as the plaint discloses

some cause of action which requires determination by the Court, the plaint cannot be rejected on the ground that it does not disclose cause of action, even if the Plaintiff, in the opinion of the Judge, may not succeed at final trial. The bundle of facts which are required to be proved for obtaining relief form the cause of action for a suit. For the said purpose, material facts are required to be stated in the plaint. The requirement that the plaint has to disclose the cause of action does not, and, is not, to mean that the cause of action pleaded is one that is 'ultimately' likely to succeed at trial. See for support : **Mayar (H. K.) Ltd. & Ors. v. Owners & Parties, Vessel M.V. Fortune Express & Ors.; AIR 2006 SC 1828**. The power to reject the plaint under Clause (a) of Order VII Rule 11 of CPC cannot be exercised in cases where the plaint discloses cause of action. The plaint cannot be rejected on the basis of any defence that may be set up by the Defendant or even on the basis of any plea that may raised by the Defendant in an application seeking that the plaint may be rejected. This is the law.

5. In the case in hand, having examining the plaint, we see that it discloses the cause of action demonstrating the Plaintiff's right and cause to sue. He has also pleaded that he had taken recourse to the Dispute/Grievance Redressal Committee, with no avail. Hence, the impugned order is unsustainable.
6. In the result, this appeal is allowed setting aside the impugned order and the resultant deemed decree. The Court below shall take back the plaint on record and proceed with it further, in accordance with law. It is so directed. The parties are directed to mark appearance before the Court below on 04.01.2018.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sanjay Agrawal)
Judge