

HON'BLE SRI JUSTICE S.V.BHATT

C.R.P. No.4634 OF 2017

ORDER:

The 1<sup>st</sup> defendant in O.S No.43 of 2016 is the revision petitioner. The revision petitioner filed I.A. No.21 of 2017 under Order 7 Rule 11 of CPC for rejecting the plaint. The prayer for rejection of plaint is considered and the following findings are recorded.

“In the present case on hand, it is ground put forth by the learned counsel for the petitioners/defendant that present suit is filed without cause of action. But, the respondent/plaintiff contended that the petitioners/defendants are trying to interfere into the possession of the respondent/plaintiff over the suit schedule property. Therefore, such contention as to cause of action, whether the petitioners/defendants are trying to interfere into the possession of the respondent/plaintiff over the suit schedule property, cannot be adjudicated in this Interlocutory application and it will be decided during the course of trial only, which is question of fact. Therefore, it is for the respondent/plaintiff to establish cause of action for filing of the suit, and also to establish his possession over the suit schedule property by adducing oral and documentary evidence. Therefore, at this stage, it cannot be said that there is no cause of action against the petitioner/defendant No.1. Therefore, there is no force in the contention of the petitioners/defendants.

In view of the above discussion held, this Court is of the opinion that the petitioners/defendants failed to establish cogent reasons to reject the plaint. Hence, the point is answered against the petitioners and in favour of the respondents.”

After perusing the record and the findings recorded by the learned trial Judge, this Court is of the view that no exception is made out to the findings recorded, much less a ground is made out for admitting the CRP. Revision fails and is dismissed. The rejection of prayer in I.A. No.21 of 2017 or CRP shall not be understood that this Court is expressing a view on the merits pleaded by the revision petitioner in the written statement. The learned trial Judge considers disposing of the suit expeditiously preferably within six months from the date of receipt of a copy of this order.

No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.



S.V.BHATT,J

Date:10.11.2017

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