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HIGH COURT OF CHHATTISGARH, BILASPUR**Civil Revision No. 39 of 2017**

{Arising out of Order dated 20.02.2017 passed in Civil Suit No. 24-A/2015 by the 2nd Additional District Judge, Sakti}

1. Arun Kumar Agrawal Son of Late Satyanarayan Agrawal, aged 50 years.
2. Anil Agrawal son of Late Satyanarayan Agrawal, aged 45 years.
3. Shivkumar Agrawal son of Late Satyanarayan Agrawal, aged 48 years.
4. Smt. Meena Agrawal wife of Shri Arun Kumar Agrawal, aged 46 years.
5. Smt. Sunita Agrawal wife of Shri Anil Agrawal, aged 40 years.

All are residents of Near Ram Mandir, Sakti, Tahsil and Police Station Sakti, District Janjgir-Champa, Chhattisgarh

---- Applicants

Versus

1. Jitesh Kumar Agrawal son of Shri Kapurchand Agrawal, aged about 36 years, Occupation Business, Resident of Hatri Chowk, Sakti, Tahsil and Police Station Sakti, District Janjgir-Champa, Chhattisgarh.
2. Raja Surendra Bahadur Singh son of Late Jivendra Bahadur Singh, aged about 73 years, Occupation - Politics, resident of Hari Gujar Palace, Sakti, Tahsil and Police Station Sakti, District Janjgir Champa, Chhattisgarh.
3. State of Chhattisgarh, Through the District Collector, Janjgir-Champa, Chhattisgarh.

---- Respondents

For Petitioner	: Shri Rajeev Shrivastava, Advocate.
For Respondent No. 1	: Shri Amit Sharma, Advocate
For Respondent No. 2	: Shri Deepak Kumar Singh, Advocate.
For Respondent/State	: Shri UNS Deo, Government Advocate.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice

Judgment on Board

28/06/2018

1. This revision petition under Section 115 of the Code of Civil Procedure, 1908; for short 'CPC' is against an order refusing to reject the plaint under Order VII Rule 11 of the CPC.
2. The decree sought for in the plaint was for a declaration that sale deeds executed by Defendant No. 6 in favour of Defendants No. 1 to 5 are invalid and that the Plaintiff has right to hold the property on the basis of a contract for sale entered into between Defendant No. 6 and the Plaintiff.

The Plaintiff also sought for relief against dispossession on the allegation that he is in possession following the contract for sale with Defendant No. 6. Defendants No. 1 to 5 who are the transferees from Defendant No. 6, filed an application under Order VII Rule 11 of the CPC on the plea that no substantial cause of action is disclosed and therefore, the plaint is liable to be rejected.

3. The learned counsel for the Revision Petitioners-Defendants No. 1 to 5 argued that there can be no claim for injunction against the true owner and that the plaint does not disclose any cause of action inasmuch as the Plaintiff has no right to sue except to seek specific performance of the contract to sale. It is thus argued that the Plaintiff does not have any cause of action to sustain the suit for declaration that transfer deeds executed by Defendant No. 6 in favour of Defendants No. 1 to 5 are void or voidable at the option of the Plaintiff. It is therefore argued that the Court below acted illegally in dismissing the application under Order VII Rule 11 of the CPC.
4. Per contra, the learned counsel for the contesting Plaintiff argued that the plaint is for different reliefs including a relief on the strength of the possession asserted by the Plaintiff. He also argued for the position that the question whether the suit is maintainable or not is not to be dealt with in an application under Order VII Rule 11 of the CPC, though such question may, in appropriate cases, be dealt with even as a preliminary issue, provided such issue could be treated as issues which are available for decision as preliminary issue in terms of the provisions of the CPC.
5. Order VII Rule 11(a) of the CPC provides that a plaint may be rejected if it does not disclose cause of action. Cause of action comprises the bundle of facts relevant for determination of the *lis* between the parties. It is that bundle of facts which give rise to right or liability. Cause of action is a

fundamental element to confer jurisdiction upon the Court and which has to be proved by the Plaintiff to support his right through a judgment of the Court. Though, the term 'cause of action' is not defined in the CPC, it is always recognised as a phrase of wide import. It may take different meanings in different contexts. Generally understood, cause of action describes the bundle of facts, which if proved or admitted, would entitle the Plaintiff to the relief as prayed for. These well settled principles necessarily would indicate that in the case in hand, the plaint was not liable to be rejected on its plain reading, having particular regard to the different reliefs sought for by the Plaintiff.

6. Learned counsel for the Plaintiff is justified in pointing out that the relief sought for by the Plaintiff includes one founded on the plea of possession. Therefore, there was sufficient substance by way of pleadings in the plaint to insulate it from being rejected under Order VII Rule 11(a) of the CPC. The Court below was therefore abundantly justified in refusing to reject the plaint by exercising authority under Order VII Rule 11 of the CPC. The impugned order does not therefore warrant interference.
7. I would however clarify, at the request of learned counsel for the Revision Petitioner, that if any issue as to the maintainability of the suit is one that could be decided as a preliminary issue in strict conformity with Order XIV Rule 2(2) of the CPC, this order and the order from which this revision arises would not preclude the Court below from considering any request of the Revision Petitioners-Defendants No. 1 to 5 in that regard. Subject to that, this revision petition fails. The same is accordingly dismissed.

Sd/-
(Thottathil B. Radhakrishnan)
CHIEF JUSTICE