

HIGH COURT OF CHHATTISGARH, BILASPUR

Civil Revision No.96 of 2018

Order reserved on: 22-11-2018

Order delivered on: 26-11-2018

1. Smt. Pratibha Gupta, W/o Shri Krishna Swaroop Gupta, aged about 53 years, R/o G.E. Road, Rajnandgaon, Tahsil & District Rajnandgaon (C.G.)
2. Smt. Sarojini Gupta, W/o Dr. Rajesh Swaroop Gupta, aged about 50 years, R/o Mahesh Nagar, Rajnandgaon, Tahsil & District Rajnandgaon (C.G.)

---- Applicants
(Defendants)

Versus

1. Haji Sadrudhdin Badgujar, S/o Late Sirajuddin, aged about 50 years, R/o Manav Mandir Road, Raj Textiles, Rajnandgaon, Tahsil & District Rajnandgaon (C.G.)
2. Moh. Islaamuddin Badgujar, S/o Late Sirajuddin, aged about 35 years, R/o Telipara, Azad Chowk, Rajnandgaon, Tahsil & District Rajnandgaon (C.G.)

---- Respondents
(Plaintiffs)

For Applicants:	Mr. Manoj Paranjpe, Advocate.
For Non-applicants:	None present, though served.

Hon'ble Shri Justice Sanjay K. Agrawal

C.A.V. Order

1. In a civil suit preferred by the non-applicants / plaintiffs for declaration of title that they have perfected their title on the suit land by adverse possession and for grant of permanent injunction restraining the defendants from interfering with the peaceful possession, an application under Order 7 Rule 11 of the CPC was preferred by the defendants / applicants herein stating that suit for declaration of title based on adverse

possession is not maintainable in view of the decision rendered by the Supreme Court in the matter of **Gurdwara Sahib v. Gram Panchayat Village Sirthala and another**¹, that was came to be rejected by the trial Court by the impugned order. Questioning that order, this civil revision has been preferred.

2. Learned counsel for the applicants / defendants would submit that the trial Court is absolutely unjustified in rejecting the application holding it to be not barred by Order 7 Rule 11 of the CPC and relied upon the decision of the Supreme Court in **Gurdwara Sahib** (supra).
3. None present for the non-applicants / plaintiffs, though served.
4. I have heard learned counsel for the applicants / defendants and considered his submission made herein-above and went through the record with utmost circumspection.
5. It is well settled law that while considering the application under Order 7 Rule 11 CPC whole plaint has to be read, few lines or passage should not be read in isolation and pleadings have to be read as a whole to ascertain its true import (**Ram Prakash Gupta v. Rajiv Kumar Gupta and others**²).
6. Similarly, in the matter of **Sejal Glass Limited v. Navilan Merchants Private Limited**³ it has been held by the Supreme Court that plaint as a whole can be rejected under Order 7 Rule 11 CPC and it was observed as under:-

“What is important to remember is that the provision refers to the “plaint” which necessarily means the

1 (2014) 1 SCC 669

2 (2007) 10 SCC 59

3 (2018) 11 SCC 780

plaint as a whole. It is only here the plaint as a whole does not disclose a cause of action that Order 7 Rule 11 springs into being and interdicts a suit from proceeding.”

7. Reverting to the facts of present case, in light of the principles of law rendered in the aforesaid judgment, it is quite *vivid* from the perusal of plaint that it is a suit for declaration of title and permanent injunction mainly on the ground that plaintiff No.1 was allowed to stay by Ram Sewak Das who died on 22-10-1997 and thereafter one Dharmendra Das demanded possession of the suit house which was declined by the plaintiffs and thereafter it came to their knowledge that Dharmendra Das has sold the property to the defendants and said defendants are interfering with their possession and the defendants are trying to dispossess them except in accordance with law, which they are not entitled and therefore the defendants be restrained from interfering with their peaceful possession and further pleaded that since, they are in possession since August, 1997, their possession is not permissive and it is adverse possession, as the suit filed by Shri Dharmendra Das being Civil Suit No.3/2012 with respect to the suit property has already been dismissed by the District Judge, Rajnandgaon and as such they are entitled for decree of permanent injunction. In the considered opinion of this Court, the suit framed and filed clearly discloses triable cause of action and it cannot be held that plaint is liable to be rejected under Order 7 Rule 11(d) of the CPC.

8. In the judgment cited by Mr. Paranjpe, in Gurdwara Sahib

(supra), the Supreme Court has held as under:-

“10. As the appellant is in possession of the suit property since 13-4-1952 and has been granted the decree of injunction, it obviously means that the possession of the appellant cannot be disturbed except by due process of law.”

9. In view of the aforesaid analysis, the trial court is absolutely justified in rejecting the application under Order 7 Rule 11 CPC for rejection of the plaint in which I do not find any illegality or perversity in the impugned order. The civil revision deserves to be and is accordingly rejected. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

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