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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on: 25.07.2018

Pronounced on: 02.08.2018

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

C.R.P. (MD) (PD) No.1820 of 2016
and C.M.P. (MD) No.8757 of 2016

1. T.K.Chinnasamy Pillai
2. L.Vijayarani
3. L.Kantha
4. K.Mayilvel ... Petitioners/Petitioners/Defendants 1 to 4

-vs-

1. S.Rajasekar
2. S.Saminathan
3. S.Jeyamari
4. S.Kaleeshwaran
5. N.Gonkuraman ... Respondents 1 to 5/Respondents 1 to 5/
Defendants 5 to 9
6. Sivagangai Samasthanam Devasthanam
Through its Manager
Ilango, S/o.Pandiyan
Sathira Street, Sivagangai. ... 6th Respondent/
6th Respondent/Plaintiff

Prayer: Civil Revision is filed under Article 227 of the Constitution of India, against the Ex. and Fair Order in I.A.No.947 of 2013 in O.S.No.54 of 2010 dated 01.04.2016 on the file of the Subordinate Judge, Sivagangai.

For Petitioner : Mr.V.Ramakrishnan
For R1 to R5 : No Appearance
For R6 : Mr.T.Srinivasa Raghavan

O R D E R

The revision petitioners are the defendants 1 to 4 in the suit in O.S.No.54 of 2010 on the file of the Subordinate Court, Sivagangai and in the suit, the plaintiff / 6th respondent herein, namely, Sivagangai Samasthanam Devasthanam had sought for recovery of possession. During pendency of the suit, the revision petitioners / defendants 1 to 4 have filed an application in I.A.No.947 of 2013 for rejection of the plaint under Order VII Rule 11(a) and (b) of CPC and the said application was dismissed on the ground that the question regarding non-transfer of properties to the plaintiff, can be gone into only at the time of witness examination. Challenging the said order, the petitioner are before this Court.



2. It was the case of the revision petitioners that the properties described in the agreement dated 28.03.1955 were not sold by them to the plaintiff. The suit was improperly valued by abusing the concession given to the religious institution. It was the further case of the petitioners that when the properties, which were created for security purpose, were not transferred to the plaintiff. In the absence of any cause of action shown by the plaintiffs to maintain the suit, no useful purpose would be served in keeping it pending forever.

3. The revision petitioners stated that in the plaint, it was stated that the defendants 1 to 4 had sold the suit properties to other defendants through Ex.A11 and A23, but however, the properties mentioned in Ex.A11 and Ex.23 with that of the property in Ex.A1 were not identifiable. Moreover, the plaintiff Devasthanam cannot be stated to be a religious institution and therefore, it cannot escape from its liability from payment of adequate Court

4. The said application was resisted by the plaintiff / R6 contending that the issue relating to pecuniary jurisdiction and the court fee could be decided only at the time of trial. The plaint cannot be rejected at the threshold on the aforesaid ground. The intention of the petitioner is only to drag on the trial of the suit and to grab the property of the temple. Therefore he prays to dismiss the aforesaid application. It was further contended that since the Trial in the suit had already commenced, the application under Order VII Rule 11 is not maintainable and the plaintiff acquired rights from Ex.A1 and it was the revision petitioners, who have sold the properties in violation of Ex.A1. Even for the sake of argument, if it is taken that false cause of action had been pleaded in the plaint, such ground will not come within the purview of the said provision for rejection of the plaint. It was also represented that the submission of the revision petitioners, that the plaintiff had made use of the concession for payment of lesser Court Fee, is a matter for trial and the same cannot be agitated in an application filed for rejection of the plaint. Hence, it was prayed that this petition, being devoid of merits, is liable to be dismissed *in limine*.

5. Learned counsel for the petitioners has submitted that in the absence of clear cause of action shown as against the defendants in the suit, the suit cannot be allowed to be proceeded, for which, he has relied upon the judgment of the Hon'ble Supreme Court in the case of *Church of Christ Charitable Trust and Educational Charitable Society vs. M/s.Ponnamman Educational Trust*, reported in (2012) 8 SCC 706, wherein it has been held as follows:



"30. In the light of the above discussion, in view of the shortfall in the plaint averments, statutory provisions, namely, Order VII Rule 11, Rule 14(1) and Rule 14(2), Form Nos. 47 and 48 in Appendix A of the Code which are statutory in nature, we hold that the learned single Judge of the High Court has correctly concluded that in the absence of any cause of action shown as against the 1st defendant, the suit cannot be proceeded either for specific performance or for the recovery of money advanced which according to the plaintiff was given to the 2nd defendant in the suit and rightly rejected the plaint as against the 1st defendant. Unfortunately, the Division bench failed to consider all those relevant aspects and erroneously reversed the decision of the learned single Judge. We are unable to agree with the reasoning of the Division Bench of the High Court."

6. It was further put forth by the learned counsel for the petitioners that the plaint must be rejected at the threshold, where cause of action pleaded in the plaint is illusory, in support of which, he has cited a judgment of the Hon'ble Division Bench of this Court in the case of *Cambridge Solutions Limited, Bangalore vs. Global Software Limited, Chennai*, reported in 2017 (1) CTC 497, in which the Hon'ble Division Bench was pleased to observe as under:

"21. This court, after careful perusal of the plaint, feels that the averments regarding fraud and collusion are non-existent and have been made only to sustain the suit. Procedural irregularities by the tribunal not affecting the parties concerned cannot amount to fraud. The Honourable Supreme Court in its decision reported in AIR 1977 SC 2421 (T.Arivanandam Vs. Satyapal) has held as follows:-

5. We have not the slightest hesitation in condemning the petitioner for the gross abuse of the process of the court repeatedly and unrepentantly resorted to. From the statement of the facts found in the judgment of the High Court, it is perfectly plain that the suit now, pending before the First Munsif's Court, Bangalore, is a flagrant misuse of the mercies of the law in receiving plaints. The learned Munsif must remember that if on a meaningful-not formal-reading of the plaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Or. VII R.11 C.P.C. taking care to see that the ground mentioned therein is fulfilled. And, if clever, drafting has created the illusion of a cause of action, nip it in the bud at the first hearing by examining the party searchingly under Order X C.P.C. An activist Judge is the answer to irresponsible law suits. The trial court should insist imperatively on



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examining the party at the first bearing so that bogus litigation can be shot down at the earliest stage. The Penal Code (Ch. XI) is also resourceful enough to meet such men, and must be triggered against them. In this case, the learned Judge to his cost realised what George Bernard Shaw remarked on the assassination of Mahatma Gandhi "It is dangerous to be too good."

22. It is very clear from the above judgment that it is the duty of every trial court to carefully analyze whether the cause of action pleaded in the averments in the plaint is real or fictitious. In case, it is found to be surreal, the plaint must be rejected at the thresh hold with costs."

7. The argument was further advanced by the learned counsel for the petitioners stating that material suppression made by plaintiff would amount to fraud on Court and in that event, the plaint is liable to be rejected and in support of this submission, he has relied upon my judgment rendered in *M.Perumal and others vs. Vijayakumari and others*, reported in 2017 (1) CTC 517, wherein I have held as under:

"23. On fair reading of the above provisions, it made clear that when no cause of action for filing the suit, the defendant can file petition under Order 7 Rule 11(a) for rejection of the plaint. Accordingly, this petitioners/defendants have filed the above I.A.No.182 of 2011 for rejecting the plaint, no cause of action in filing the suit.

24.It is made clear that when the first respondent/first plaintiff has sold 4 cents of land, she has no right to file the suit for the entire property of 25 cents for declaration, declaring the plaintiff is the owner of the entire 25 cents of land. Therefore, the ground raised by the petitioners/defendants for rejecting the plaint that there was no cause of action for filing the suit is absolutely correct. Once the first respondent/first plaintiff has sold the 4 cents of land out of 25 cents, she can file suit only for 21 cents out of 25 cents. Therefore, it is made clear that there was no cause of action for filing the suit in O.S.No.1 of 2011.

25. But, without gone through the records and without giving the proper appreciation of the claim of the petitioners/defendants, since on record it made clear



that the first respondent/ first plaintiff has sold 4 cents of land, the learned Judge had simply stated that the prayer sought for the rejection of the plaint should be decided only in the trial and the interference of the defendant also to be considered.

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26. It is very unfortunate and shock and surprise that once the plaintiffs have approached the Court by suppressing the fact about the sale of the portions of the land and sought for the prayer for declaration, declaring the title of the plaintiffs for the entire properties of the 25 cents, which is absolutely amounts to fraud played by the plaintiffs particularly, the first respondent/first plaintiff on the Court. Therefore, it is made clear that there was no cause of action for filing the suit.

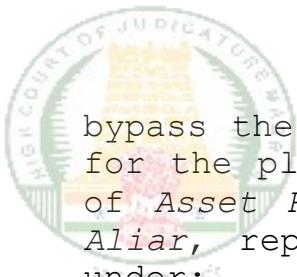
27. Time and again, this Court and the Hon'ble Apex Court has categorically held that when the Courts below has considering the applications filing by the litigants, they should apply their mind in a proper manner and they should decide the applications with judicial conscious. But, in my opinion, the case in hand it is absolutely lack on the part of the learned Judge, namely the Principal District Munsif, Vandavasi.

28. In the above circumstances, it is absolute necessarily of this Court for interference of the order passed by the learned Judge and accordingly this Civil Revision Petition is ought to be allowed by setting aside the order.

29. In the result, the civil revision petition is allowed, by setting aside the order passed in I.A. No.182 of 2011 in O.S.No.1 of 2011, dated 31.10.2011, on the file of the Principal District Munsif, Vandavasi, Thiruvannamalai District and the suit in O.S.No.1 of 2010 is struck off from the file. No costs. Consequently, connected miscellaneous petition is closed."

8. By placing strong reliance on the above judgments, it was represented by the learned counsel for the plaintiff that without correct identify of the properties mentioned in Ex.A1 by the plaintiff, there was no cause of action for the plaintiff to maintain the suit and therefore, the order of the Trial Court is liable to be set aside and it is a fit case for rejection of the plaint.

9. Per contra, learned counsel for the plaintiff / R6 would vehemently contend that Section 115 CPC should not be used as a dead letter, when a restriction in the power of revision is provided under the said section and the parties should not be allowed to



bypass the same. In support of the said contention, learned counsel for the plaintiff has cited the judgment of this Court in the case of *Asset Reconstruction Company (India) Ltd., vs. S.Syed Mohammed Aliar*, reported in (2016) 4 MLJ 400, wherein it was observed as under:*

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"4. Now-a-days, there is an increasing tendency to disregard the relevant provisions in the Statutes, under which the reliefs could have been sought for and to simply file a petition under Article 227 of the Constitution of India for each and everything. Such a tendency should be curbed and nipped at the bud. As against the order passed under Order VII Rule 11 of C.P.C., if it results in the rejection of the plaint, an appeal will lie. On the other hand, if it results in the dismissal of such an application, it squarely falls within the ambit of Section 115 of C.P.C. dealing with the revision. The case of dismissal of an application under Order VII Rule 11 of C.P.C. does not fall under the mischief of the Proviso to Clause [1] of Section 115 of C.P.C.

6. In the presence of a specific provision under Section 115 of the C.P.C. dealing with revision, which also provides a restriction in its application, invocation of the power of superintendence under Article 227 of the Constitution of India as an alternative method for challenging an order of the Subordinate Court, when such order can be challenged by way of a revision under Section 115 of the C.P.C, shall not be proper. Hence the contention of the learned counsel for the petitioner that no revision can be filed under the provisions of the C.P.C. when the court below fails to exercise a jurisdiction conferred on it or exercised a jurisdiction not conferred on it and that the only recourse available to the aggrieved person shall be to invoke the power of superintendence of the High Court under Article 227 of the Constitution of India, cannot be countenanced.

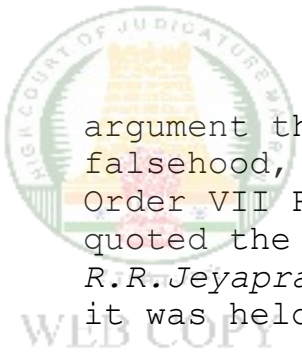
7. In fact Section 115 of the Code of Civil Procedure, 1908 deals with the case of failure on the part of the court below to exercise jurisdiction conferred on it, the exercise of a jurisdiction by the Subordinate Court which is not conferred on it and the exercise of jurisdiction conferred on it illegally and with material irregularity. All the grounds on which such revision can be filed under section 115 of the Code of Civil Procedure, 1908 are touching the jurisdiction of the court below. As such, the contention of the counsel for the petitioner that the order of the court below can be challenged only under Article 227 of the Constitution of India cannot be sustained.



8. The further contention of the counsel for the petitioner to the effect that even the availability of such an alternative remedy shall not be a bar for invocation of the power of superintendence under Article 227 of the Constitution of India also cannot be countenanced. In a catena of cases, almost all the High Courts and the Supreme Court have held that in case of challenge to orders passed by the subordinate courts or by the Administrative or Quasi-Judicial Authority, the self-imposed restriction not to exercise the extraordinary power of the High Court under Article 226 of the Constitution of India or the power of superintendence under Article 227 of the Constitution of India shall get attracted, barring cases in which violation of fundamental rights or enforcement of fundamental rights is involved. If everyone is allowed to bypass the procedure provided in the statute passed by the legislature and invoke such extraordinary jurisdiction or the supervisory jurisdiction, then the provision found in the statute, in this case Section 115 of the Code of Civil Procedure, 1908, will be reduced to a dead letter. Above all in the concerned provision of the Civil Procedure Code, 1908, namely Section 115, an embargo has been provided under the proviso to sub clause (1) for the exercise of the power of revision. The proviso states that no revision shall be entertained by the High Court, if the order challenged had otherwise been in favour of the person filing the revision, it would not have resulted in the termination or final disposal of the proceeding before the court below. Such a bar is not attracted in the present case. The order challenged is one passed dismissing the application filed under Order VII Rule 11 CPC filed for rejection of the plaint. If the order had been in favour of the revision petitioner, it would have resulted in the rejection of the plaint, which would be the termination of the proceeding before the trial court. Hence the bar provided in the proviso does not get attracted to the case in hand.

9. Even otherwise when such a restriction in the power of revision is provided under Section 115 of the Code of Civil Procedure, 1908, the parties cannot be allowed to neglect or disregard the said provision, by bypassing the same in order to avoid the attraction of such a bar, invoke the power of superintendence of the High Court under Article 227 of the Constitution of India and there by expand the scope of such revision. If this court entertains the revision under Article 227 of the Constitution of India, it will amount to making the provision found in Section 115 of the Code of Civil Procedure as a dead letter in the statute."

10. Learned counsel for the plaintiff has adopted the



argument that even if cause of action pleaded is false or deliberate falsehood, the same cannot be gone into in an application under Order VII Rule 11 of CPC and in support of the said argument, he has quoted the judgment of this Court in the case of *V.Bragan Nayagi vs. R.R.Jeyaprakasam and another*, reported in (2015) 4 MLJ 538, wherein it was held as follows:

"17. Clause A deals about the disclosure of cause of action. The idea undermined in the said provision is that when no cause of action is disclosed in the plaint, the Court will not unnecessarily protract and the party should not be unnecessarily harassed in the suit. For the purpose of invoking the power, the Court has to read the plaint whether it discloses the cause of action and if it does, then the plaint cannot be rejected by the Court by exercising power under Order 7 Rule 11 CPC. It is a trite law that the cause of action is a bundle of facts and whether the plaint discloses cause of action is a question of fact which has to be gathered based on the averments made in the plaint in its entirety by taking those averments to be correct. So long as the plaint discloses some cause of action which requires determination by the Court, the mere opinion that the plaintiff may not succeed cannot be a ground for rejection of the plaint.

38. A Plaint should not be rejected under Order 7 Rule 11 of Civil Procedure Code at the initial state without proper enquiry. At the same time, a Court of Law has enough powers to see that vexatious litigations are not allowed to consume the time of the Court. However, a Plaint should be rejected as per Order 7 Rule 11 of Civil Procedure Code where it does not disclose a cause of action and not where there is no cause of action. A Plaint would be read as a whole and the merits of the case are not to be considered at this stage.

39. From the submissions made by both sides, this Court is of the considered opinion that the allegations made in the plaint cannot be gone into at the threshold as it is a matter to be tried in suit. The allegation of suppression of fact, misrepresentation or even fraud cannot be a ground for rejection of plaint. Even if the cause of action pleaded is false or deliberate falsehood, the same cannot be gone into in an application under Order 7 Rule 11 of the Code of Civil Procedure."

<https://hcservices.ecourts.gov.in/hcservices/> 11. The learned counsel for the plaintiff / R6 would rely on a judgment of this Court to state that if a property of a person is given for any service or charity, then it would be construed as a



public charity, which was held in the case of *E.Damodharan vs. Triplicane Annadhana Samajam*, reported in (2016) 3 MLJ 889, holding as under:

15. The Tamil Nadu Hindu Religious and Charitable Endowment Act also deals with a public charitable trust. Sub-section (17) of Section 6 of the said Act defines the term "religious endowment or endowment" which reads as follows:-

" 6 (17) "religious endowment" or "endowment" means all property belonging to or given or endowed for the support of maths or temples, or given or endowed for the performance of any service or charity of a public nature connected therewith or of any other religious charity; and includes the institution concerned and also the premises thereof, but does not include gifts of property made as personal gifts to the archaka, service holder or other employee of a religious institution;"

16. From the above said definition also it becomes very clear that if a property belonging to a person is given for the purpose of any service or charity, then, it is a public charity.

17. When a trust is created, the person to whom the trust property is entrusted with the obligation to perform the objects of the trust is the trustee. Such person may be a natural person or an artificial juridical person. Such artificial person may be created by the trust deed itself or it may be already in existence. In this regard, we may look into the judgement of the Hon'ble Supreme Court in *Yogendra Nath Naskar v. Commissioner of Income Tax* reported in 1969 (1) SCC 555 wherein the Hon'ble Supreme Court has held as follows:-

"The legal position is comparable in many respects to the, development in Roman Law. So far as charitable endowment is concerned Roman Law-as later developed recognized two kinds of juristic persons. One was a corporation or aggregate of (1) 10 C.L.J. 355 at 369. (2) Hindu Law of Religious & Charitable Trust by Mr. B.K, Mukherjee. persons which owed its juristic personality to State sanction. A private person might make over property by way of gift or legacy to a corporation already in existence and might at the same time prescribe the particular purpose for which the property was to be employed e.g. feeding the poor or giving relief to- the poor distressed. The recipient corporate would be in a position of a trustee and would be legally bound to spend the funds for the particular purpose. The other alternative was for the donor to create an institution or foundation himself. This would be a new juristic person which depended for its origin upon nothing else but the



will of the founder provided it was directed to a charitable purpose. The foundation would be the owner of the dedicated property in the eye of law and the administrators would be in the position of trustees bound to carry out the object of the foundation."

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12. Thus, it was pleaded by the learned counsel for the plaintiff / R6 that mere plea of absence of cause of action alone will not take away the rights of the plaintiff in seeking recovery of possession and the application filed under Order VII Rule XI CPC cannot be used as a tool for curtailing the rights of the plaintiff and therefore, the order of the Trial Court is perfectly valid in the eye of law and needs no intervention by this Court.

13. I have heard the learned counsel for the petitioners and the learned counsel for the plaintiff / R6 and also perused the entire materials available on record, including various citations placed on either side.

14. Before discussing the issue involved in this civil revision petition, it would be useful to extract Order 7, Rule 11 CPC which reads as follows:

"Order 7: Plaint:

Rule 11: Rejection of plaint:--The plaint shall be rejected in the following cases:

(a) where it does not disclose a cause of action;

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

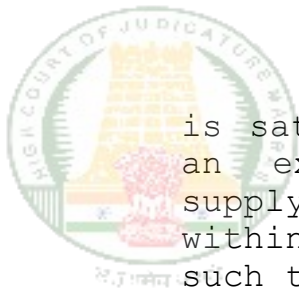
(c) where the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

(e) where it is not filed in duplicate;

(f) where the plaintiff fails to comply with the provisions of Rule 9:

<https://hcservices.courts.gov.in/hcservices> that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-papers shall not be extended unless the Court, for reasons to be recorded,



is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp papers, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff."

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15. The point for consideration in this civil revision is as to whether the plaint is liable to be rejected on the ground that it does not disclose a cause of action and the suit is not properly valued as contemplated under Order 7 Rule 11(a) and (b) of CPC.

16. As per the above provisions of the Code of Civil Procedure, the plaint can be rejected only under the circumstances stated therein and not otherwise. Insofar as the present case is concerned, the plaint is sought to be rejected firstly by invoking sub-rule (a) of Rule 11 of Order 7 of CPC. The main plea taken by the revision petitioners was that the plaint schedule property is not mentioned in the agreement dated 28.03.1955, which was marked during examination of plaintiff side witness. To be specific, the plaintiff had alleged that the revision petitioners / defendants 1 to 4 had dealt with the properties of the plaintiff and sold the same to other defendants vide Ex.A11 and A23. When such a plea was raised on the side of the plaintiff, it is incumbent on the part of the plaintiff to prove that the properties dealt by the defendants 1 to 4 and the property mentioned in the agreement are one and the same. A casual glance at the agreement / Ex.A1 and the description of the properties as found mentioned in Ex.A11 and A23 would obviously reveal the fact that the properties are not identical to each other and thus, the plaintiff had miserably failed to establish both the identity of the properties. When there was a false cause of action alleged by a party, the plaint can be revoked by invoking Order 7 Rule 11 of CPC and it could be seen that the averments of fraud and collusion are non-existent in this case and such false averments have been made only to sustain the suit. The burden was always with the plaintiff to aver facts clearly and he must produce relevant documents on which the cause of action is based.

17. This Court felt it appropriate to refer to the judgment of the Hon'ble Supreme Court in the case of *T.Arivandandam vs. T.V.Satyapal*, reported in (1977) 4 SCC 467, wherein, the Hon'ble Supreme Court, while dealing with the application under Order 7 Rule 11, was pleased to hold as under:

"5.The learned Munsif must remember that if on a meaningful - for formal - reading of the plaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Order VII, Rule 11 C.P.C. taking care to

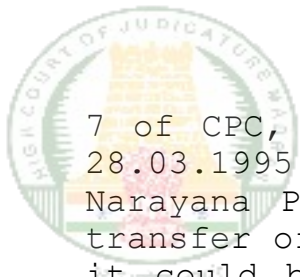


see that the ground mentioned therein is fulfilled. And if clever drafting has created the illusion of a cause of action nip it in the bud at the first hearing by examining the party searchingly under Order X, C.P.C. An activist Judge is the answer to irresponsible law suits. The trial Courts would insist imperatively on examining the party at the first hearing so that bogus litigation can be shot down at the earliest stage. The Penal Code is also resourceful enough to meet such men, (Cr.XI) and must be triggered against them...." It is clear that if the allegations are vexatious and meritless and not disclosing a clear right or material(s) to sue, it is the duty of the trial Judge to exercise his power under Order VII Rule 11. If clever drafting has created the illusion of a cause of action as observed by Krishna Iyer J., in the above referred decision, it should be nipped in the bud at the first hearing by examining the parties under Order X of the Code."

18. The importance of analyzing the material facts in respect of proof of cause of action to be proved by the plaintiff has been elaborately elicited in yet another judgment of the Hon'ble Supreme Court in the case of *A.B.C.Laminart Pvt. Ltd. And another vs. A.P.Agencies, Salem*, reported in (1989) 2 SCC 163, in which, the Hon'ble Supreme Court explained the meaning of "cause of action" as follows:

"12. A cause of action means every fact, which if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the court. In other words, it is a bundle of facts which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the defendant since in the absence of such an act no cause of action can possibly accrue. It is not limited to the actual infringement of the right sued on but includes all the material facts on which it is founded. It does not comprise evidence necessary to prove such facts, but every fact necessary for the plaintiff to prove to enable him to obtain a decree. Everything which if not proved would give the defendant a right to immediate judgment must be part of the cause of action. But it has no relation whatever to the defence which may be set up by the defendant nor does it depend upon the character of the relief prayed for by the plaintiff."

19. Secondly, the revision petitioners sought to hit the <https://hcservices.ecourts.gov.in/hcservices/> plaintiff on the ground of undervaluation of Court fee by the plaintiff for institution of suit by invoking sub-rule (b) of Rule 11 of Order



7 of CPC, under the pretext of concession. In the agreement dated 28.03.1995 made between one Thiraviyam Pillai along with Sankara Narayana Pillai and the plaintiff, there was no whisper regarding transfer of the properties to the plaintiff Devasthanam and as such, it could be easily inferred that the properties never belonged to the plaintiff / Devasthanam. However, the plaintiff, claiming to be a religious institution created for public charity, undervalued the suit, which is against the Government Order passed in G.O.Ms.No.1574 Home dated 13.06.1972, vide which the Government had given concession in respect of religious institutions and as such, the plaintiff cannot make use of the said Government Order for suing the case with improper Court Fee in the absence of the pleadings to the extent that the plaintiff is a religious public charity.

20. Considering the overall facts and circumstances of the case, after perusing the entire records and hearing the submissions on either side, in the considered opinion of this Court, the plaintiff did not establish relevant facts before this Court to maintain the suit for recovery of possession and therefore, this Court is of the view that this is a fit case to exercise the provisions of Order VII Rule 11 for rejecting the plaint, as the averments raised in the plaint are not sufficient and the same can be said to be frivolous.

21. In the result,

a) this Civil Revision Petition is allowed and the order dated 01.04.2016 made in I.A.No.947 of 2013 in O.S.No.54 of 2010 by the learned Subordinate Judge, Sivagangai, is hereby set aside;

b) the suit in O.S.No.54 of 2010 on the file of the learned Subordinate Judge, Sivagangai (filed by the plaintiff for recovery of possession), is rejected *in toto*.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar (CS-III)

To:

1. The Subordinate Judge,
Sivagangai.
2. The Record Keeper, V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+1cc to Mr.V.RAMAKRISHNAN, Advocate, SR.No. 76504

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