

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION No.5560 of 2018

ORDER:

The petitioners are the plaintiffs in the unnumbered suit bearing OS(SR).No.2700 of 2018 on the file of the learned Principal Junior Civil Judge, Ranga Reddy District at Medchal. They are aggrieved by the docket order dated 17.07.2018 passed by the trial Court returning the plaint. This order reads as under:

“This suit is filed on 13-07-2018 for injunction basing on title. At the time of checking of suit, this court has taken two objections.

1. There is no valid link document filed to execute the Gift Settlement Deed dated 14-06-2018.

2. How the suit is maintainable basing on all the agreement of sales with different dates without filing any valid document when the plaintiff is seeking injunction basing on title and possession over the suit property.

Then the suit is returned on 13-07-2018, later on 16-07-2018 the suit is re-submitted by saying that the suit is only for injunction, so there is no need to file any document as per the above said objections. However, on perusal of the entire documents, all the documents filed by the petitioner/plaintiff are agreement of sales and moreover as per the agreement of sales, the survey number is mentioned as 4-45 of Jawaharnagar and all the link documents filed by the petitioner/plaintiff is Agreement of sales but basing on agreement of sales suddenly executed the Gift Settlement Deed in favour of the plaintiff in this suit. Therefore, without any valid and legal document, how the gift settlement deed will be executed and it is valid, and moreover the contents of the alleged sale deeds and gift deeds are that it is not a government land. There are no contents with regard to the suit schedule property that it is a private land, therefore all the documents filed by the petitioner, the contents are showing that it is a government land. The base of document is not filed,

therefore without filing of any document, how the plaintiff can seek the injunction basing on title. Therefore the objections complied by the plaintiff is not sufficient. Hence, Returned.”

In the light of the decision of this Court in Pujari Narsaiah v. Modem Sudhaker¹, it is not open to the trial Court to examine at the stage of scrutiny and registration of the suit as to whether the plaintiffs adduced sufficient documentary evidence in support of their suit prayer. At that stage, the trial Court can only insist on strict compliance with the provisions of the Code of Civil Procedure, 1908, and reject the plaint if it is satisfied that one or more of the grounds mentioned in Order 7 Rule 11 of the Code are present. The trial Court therefore ought to have been more mindful of the legal position as set out in the aforesaid judgment and the earlier decisions of this Court on this issue.

The civil revision petition is accordingly allowed setting aside the docket order dated 17.07.2018. The trial Court shall entertain the subject suit and register the same, if it is otherwise found to be in order.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

28th September, 2018
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¹ 2015 (3) ALD 641