

THE HONOURABLE SRI JUSTICE D.V.S.S.SOMAYAJULU

CIVIL REVISION PETITION No. 2725 of 2015

ORDER

This Civil Revision Petition is filed questioning the order passed in I.A.No. 556 of 2015 in O.S. No. 628 of 2012 dated 24.03.2014. I.A.No. 566 of 2014 is filed before the Court below under Order 7 Rule 11 CPC with a specific prayer that the plaint in O.S. 628 of 2012 is liable to be rejected on various grounds. The Suit No. 628 of 2012 is filed with a prayer to declare that the petitioners are illegal possessors of the scheduled A and B property and direction to redeliver the premises to the plaintiff or to his agent and to the perpetual injunction and for other relief.

2. This application is filed under the provision of Order 7 Rule 11 CPC. The matter was heard in the lower Court and after hearing both counsel, the Court below came to a conclusion that the suit is not bared by any particular law or that it does not indicate cause of action. Reasoned order was passed on 24.03.2014 and the same is now impugned in the application.

3. This Court heard Sri G. Ashok Kumar Reddy, learned counsel for the petitioner. Counsel for the respondent did not appear, despite the matter being passed over.

4. The short and simple point for consideration is whether the impugned order passed by the lower Court is not correct?

5. This Court notices that the copy of the plaint is not filed. However, on perusal of the application filed under Order 7 Rule 11 CPC and the counter that is filed, reveals that the respondent has held a case, which disclose the cause of action. Whether the cause of action is tenable or not, whether it is worthy of granting the relief or not is the matter to be decided in the lower Court. But the summary power of rejection under order 7 Rule

11 cannot be exercised, except where the plaint does not disclose cause of action, where the relief claim is under valued and the Court fee is not paid despite opportunity, where the suit appears to be barred by any law in force.

6. In the case on hand, none of these three grounds are made out. Lower Court clearly noticed in the paragraph 9 of the impugned judgment that the petitioner has not made out a case and prove that the suit is barred by particular law. In fact, the contention of the learned counsel for the petitioner attract a number of suits are being presented between the same parties and that the examine on the basis on which the plaint is presented are false.

7. In the opinion of this Court if vexatious litigation is initiated remedy of the petitioner is elsewhere. Similarly, whether documents are correct or not, whether they are fraudulently created or not is a matter to be established during the course of trial. Even the plaint discloses an emblance of cause of action, the Court cannot reject the plaint under order 7 Rule 11. Despite the clear and categorical finding of the court below, none of the grounds under order 7 rule 11 are made out. Similar argument is advanced in this Court. This Court is of the opinion that no sufficient ground is made out to interfere with the impugned order.

8. Hence the Civil Revision Petition is dismissed. In the circumstances no costs.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE D.V.S.S.SOMAYAJULU

Date: 27.11.2018.

JR

THE HONOURABLE SRI JUSTICE D.V.S.S.SOMAYAJULU



Dated: 27.11.2018.

JR

