

THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

CRP. No.3036 of 2016

ORDER:

This Revision petition is filed under Article 227 of the Constitution of India challenging the order dated 21.04.2016 passed in I.A. No.896 of 2015 in O.S. No.476 of 2013 of the Principal Junior Civil Judge, Ranga Reddy District.

2. The petitioners herein are the defendants 1 and 2 in the said suit.
3. The first respondent has filed the said suit against the petitioners and the respondents 2 and 3 for a perpetual injunction restraining them from interfering with her alleged possession and enjoyment of the suit schedule property. She claimed to have purchased the same under a registered sale deed dated 30.08.2012 from one K.Buchi Reddy and Narsimha Reddy, who, according to her, were granted certificates under Section 38-E of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950. She alleged that the petitioners and the respondents 2 and 3, who do not have any concern with the suit schedule property, are trying to grab the same; and that on 16.10.2013 they came to the suit schedule property and tried illegally to enter into it with an intention to grab it.
4. Written statement was filed by the petitioners and respondents 2 and 3 opposing the suit claim.
5. Thereafter, the petitioners and the respondents 2 and 3 filed I.A. No.896 of 2015 invoking under Order VII Rule 11 of CPC to reject the plaint.

6. In the said application they contended that the first petitioner is the owner and possessor of the land admeasuring Acs.14.13 gts., in Survey No.334 of Aushapur village having purchased the same under a registered sale deed dated 20.06.1980. Thereafter, he and the second petitioner were in continuous possession and enjoyment of the said land. They contended that the Tahsildar, Ghatkesar Mandal had mutated the name of the vendors of the first respondent/plaintiff vide Proceedings No.B/998/2010 dated 01.11.2010 and also deleted the petitioners name without causing petitioners eviction as contemplated under the law; that they filed W.P. No.27555 of 2010 before this Court, which was dismissed on 08.11.2010 granting liberty to the petitioners to avail remedy of appeal and revision under the A.P. Rights in Land and Pattadar Passbooks Act, 1971 and directed to maintain *status quo* as on that date for a period of four weeks; that an agreement of sale cum GPA was executed by the first petitioner's vendor on 13.11.2010 while *status quo* orders granted on 08.11.2010 in W.P. No.27555 of 2010 were in force in favour of one B.Suvarna; that the said B.Suvarna has executed a sale deed in favour of the first respondent in violation of the orders passed in the said Writ Petition.

7. They also contended that they have filed an appeal under Section 5(5) of the R.O.R. Act along with an interlocutory application seeking stay of the orders of the Tahsildar, but no orders were passed in the said application. They contended that they have also filed W.P. No.32559 of 2010 wherein interim order of *status quo* was initially granted and the said Writ Petition was finally disposed of on 31.12.2012 directing the appeal filed under Section 5(5) of the R.O.R. Act to be disposed of by the Special Grade Deputy

Collector and Revenue Divisional Officer, Ranga Reddy District, East Division at Hyderabad and with a further direction to the petitioners as well as the vendors of the first respondent to maintain *status quo* with regard to the possession of the property till disposal of the said appeal.

8. It is also contended that the appellate authority dismissed the appeal on 20.04.2013 vide orders in File No.A2/4261/2010 and this was challenged under Section 9 of the Act by the petitioners before the Joint Collector-1, R.R.District and he granted a stay on 29.05.2013, which was continued up to 29.10.2014. They contended that when the first respondent and her henchmen tried to dispossess the petitioners from the suit schedule property, they filed W.P. No.11360 of 2014 and this Court vide its orders dated 24.04.2014 directed that the stay order granted by the Joint Collector in the revision filed under Section 9 of the A.P. Rights in Land and Pattadar Passbooks Act, 1971 be enforced; and that when the said interim order was not complied with, the petitioners filed C.C. before this Court; that thereafter, the interim order passed by the Joint Collector was vacated by him and the petitioners filed W.P. No.8063 of 2015 before this Court.

9. According to the petitioners, in WPMP. No.10633 of 2015 in W.P. No.8063 of 2015 there was an interim suspension of the order passed by the authority and the said Writ Petition is pending.

10. The petitioners contended that they have also made Police complaint against the first respondent and when no action was taken W.P. No.12244 of 2015 was filed.

11. Therefore, they contend that when the entire transactions of the sale or otherwise in favour of the first respondent are in violation of the orders passed on 08.11.2010 in W.P. No.27555 of 2010 and the subsequent order passed on 31.12.2012 in W.P. No.32559 of 2010, the sale transactions in favour of the first respondent, are liable to be declared as void; and as the matter was seized of by the High Court, the jurisdiction of the Civil Court to entertain the suit is ousted and there is no cause of action to proceed further in the matter.

12. Counter affidavit was filed by the first respondent opposing the said application contending that the said application was filed after commencement of the trial and as an afterthought. It is contended that the petitioners had lost litigations before the High Court and the Supreme Court in respect of the land situated in Survey No.334 and possession was also delivered to the vendors of the first respondent and fresh litigation was commenced by the petitioners with *mala fide* intention. It was denied that the purchase in favour of the first respondent is null and void. It is contended that the facts stated in the affidavit filed in support of the I.A. No.896 of 2015 are not grounds for rejecting the plaint.

13. By order dated 21.04.2016, the Court below dismissed the I.A. No.896 of 2015 holding that the plaint discloses a cause of action though the petitioners took a plea that there was no cause of action. It observed that the statements in the plaint do not indicate that the Civil Court is barred by any law from entertaining the suit. It also observed that the petitioners did not specify under what provision and under what law the Court is precluded to proceed with the present suit. It further observed that whether the first respondent is entitled to the relief in the main suit or not is a different aspect

for which the entire evidence and the version put forth by the petitioners would be considered in detail; but for rejection of the plaint, the entire facts stated by the petitioners, are in no way helpful in coming to the conclusion that the plaint is liable to be rejected under Order 7 Rule 11 CPC.

14. Assailing the same, this Revision petition is filed.

15. The learned counsel for the petitioners contended that the Court below could not have entertained the suit and proceeded with it. He contended that W.P. Nos.11360 of 2014 and 32559 of 2010 are pending and no cause of action arises for the first respondent to file the present suit and the trial Court ought to have obeyed the order passed in W.P. No.11360 of 2014 read with other orders, which are binding on the first respondent and ought to have rejected the plaint on the ground that there is no cause of action.

16. The learned counsel for the first respondent refuted the said contentions and supported the order passed by the Court below.

17. I have noted the contentions of both sides.

18. Order VII Rule 11 of the CPC deals with the rejection of plaint in certain circumstances, which reads as under:

“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”

19. This provision was interpreted in **P.V. Guru Raj Reddy and Another Vs. P.Neeradha Reddy and Others**¹ wherein it is held that the power to reject the plaint is a drastic power conferred in the Court to terminate a civil action at the threshold. The conditions precedent to the exercise of power under Order 7 Rule 11, therefore, are stringent and have been consistently held to be so by the Court. It is the averments in the plaint that have to be read as a whole to find out whether it discloses a cause of action or whether the suit is barred under any law. At the stage of exercise of power under Order 7 Rule 11, the stand of the defendants in the written statement or in the application for rejection of the plaint is wholly immaterial. It is only if the averments in the plaint *ex facie* do not disclose a cause of action or on a reading thereof the suit appears to be barred under any law, the plaint can be rejected. In all other situations, the claims will have to be adjudicated in the course of the trial.

¹ (2015) 8 Supreme Court Cases 331

20. In the instant case, a reading of the plaint indicates that there is a cause of action in filing the suit since, according to the first respondent, on 16.10.2013, the petitioners and the respondents 2 and 3 tried to interfere with her alleged possession and enjoyment of the suit schedule property and also later on 25.10.2013 and according to the plaint, the cause of action is subsisting.

21. Whether the pleading of the first respondent is established by the first respondent for obtaining relief of perpetual injunction in the suit or not is a different matter.

22. The contentions raised by the petitioners are, in fact, a defence against the claim of the first respondent. While considering whether or not to reject the plaint, only the averments in the plaint have to be looked into, along with the documents filed along with the plaint, but the defence of the defendants/petitioners cannot be looked into and it would be wholly immaterial.

23. Therefore, in my considered opinion, *ex facie*, the plaint discloses a cause of action. There is no provision brought to the notice of this Court by the petitioners to state that the suit is barred under any law.

24. Therefore, I do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court in exercise of its power under Article 227 of the Constitution of India.

25. In the result, this Revision Petition is dismissed. There shall be no order as to costs.

26. As a sequel, miscellaneous applications, if any, pending shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date: 08.03.2019.
LSK

