

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.1915 of 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the revision petitioners/defendants, challenging the order, dated 13.06.2019, passed in I.A.No.659 of 2019 in O.S.No.1 of 2019, by the Principal District Judge, Warangal, whereby, the petition filed by the revision petitioners/defendants under Order VII Rule 11 of C.P.C. requesting the Court below to reject the plaint in O.S.No.1 of 2019, was dismissed.

2. Heard the learned counsel for the revision petitioners/defendants and perused the record.

3. The learned counsel for the revision petitioners/defendants would submit that the plaint in O.S.No.1 of 2019 on the file of the Principal District Judge, Warangal, is required to be rejected as per mandatory provision under Order VII Rule 11 (a) & (d) of CPC, for the reason that the subject suit does not demonstrate the existence of cause of action and the suit is barred by limitation. It is also contended that the respondents/plaintiffs earlier filed a suit in O.S.No.1074 of 2015 before the VII Additional Junior Civil Judge, Warangal, and later withdrew the same and erroneously filed the present suit, though the revision petitioners/defendants sought production of documents, including gift deed, to show title and possession of the respondents/plaintiffs over the suit schedule

property and ultimately prayed to set aside the impugned order and allow the Civil Revision Petition.

4. As seen from the record, the respondents/plaintiffs have specifically mentioned that they have filed a suit in O.S.No.1074 of 2015 before the VII Additional Junior Civil Judge, Warangal, seeking perpetual injunction and also stated that the revision petitioners/defendants have illegally occupied the suit schedule land, subsequent to filing of suit. So the respondents/plaintiffs withdrew the earlier suit O.S.No.1074 of 2015. There is also a specific mention in the plaint in the subject suit in O.S.No.1 of 2019 that the father of the respondent No.1/plaintiff No.1 was the pattadar and possessor of the suit schedule property and that the revision petitioners/defendants have illegally occupied the suit schedule property in the year 2015 and that led to filing of the subject suit. Though it is contended by the revision petitioners/defendants that the suit is barred by any other law. The averments in the plaint disclose otherwise. The Court below also examined these contentions in detail relying on relevant decisions of the Hon'ble Apex Court in C.Natrajan Vs. Ashim Bai and another¹, Ram Prakash Gupta Vs. Rajiv Kumar Gupta and others² and Saleem Bhai Vs.State of Maharashtra³ and was pleased to dismiss the subject interlocutory application. The Court below in the impugned order, rightly held that the plaint averments, as a whole, will disclose cause of action and the aspect of limitation can only be determined after due trial by framing a specific issue. In

¹ (2007) 14 SCC 183

² (2007) 10 SCC 59

³ (2003) 1 SCC 57

the given circumstances, there is no perversity in the impugned order passed by the Court below. There is nothing to take a different view. The submissions made by the revision petitioners/defendants do not merit consideration. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

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

Miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand closed.

02nd December, 2019
Vvr

Dr. SHAMEEM AKTHER, J

