

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.115 of 2020

ORDER:

This Civil Revision Petition is filed against order dated 18.09.2019 in I.A.No.156 of 2016 in OS No.1067 of 2014, wherein the application filed by the petitioner under Order 7 rule 11 of CPC for rejection of the plaint was dismissed.

Learned counsel for the petitioner submits that the contents in para 2 and para IV of the plaint are contradictory in nature, as such, the cause auction mentioned in para IV of the plaint is not a valid cause of action, as such, the trial court, without considering the same, rejected the application. He further submits that when there is no valid cause of action, the suit cannot be proceeded further and same is liable to be rejected.

In this case, it is to be seen that rejection of plaint contains under Order 7 Rule 11 of CPC, which reads as follows:

“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 induplicate;
- (f) where the plaintiff fails to comply with the provisions of Rule 9.

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper 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.”

A plaint can be rejected when there is lack of cause of action, but whether the cause of action is valid, or whether it sustains or not, are not the matters where it can be enquired in an application under Order 7 Rule 11 of CPC. A perusal of the plaint also goes to show that it does not lack any cause of action. Whether the plaintiff is entitled for the relief or not is the matter to be considered during the course of trial but not at this stage under Order 7 Rule 11 of CPC application. The trial Court after considering the plaint, also came to the conclusion that the cause of action for filing the suit do exist.

In view of above facts and circumstances, I do not see any infirmity or illegality in the order passed by the trial Court by exercising jurisdiction under Article 227 of the Constitution of India.

Accordingly, Civil Revision Petition is dismissed. There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed.

A.RAJASHEKER REDDY,J

24.01.2020
kvs

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Date: 24.01.2020

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