

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THURSDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SMT. JUSTICE LALITHA KANNEGANTI

CIVIL REVISION PETITION NO: 3008 OF 2022

Petition under Article 227 of the Constitution of India aggrieved by the order dated 16/11/2022 in I.A. No. 608 of 2021 in O.S. No. 26 of 2021 on the file of the Court of the District Court at Nalgonda.

Between:

Shaik Syed Hussain, S/o. Shaik Khasim, Aged about. years, Occ. Business,
R/o. H. No. 5-6-196, Bottuguda, Nalgonda Town and District.

...PETITIONER/DEFENDANT

AND

Response Projects (India) Ltd, A Company Registered the companies Act,
office address at No. 3-10-20/ and A, Gokhale Nagar, Ramanthapur,
Hyderabad-50013, Rep. by its Director P.M. Nair S/o. Late. Mr. N. P. Pillai,
Aged About. 81 years, Occ. Businessman, R/o. H. No. 3-10-20/7A,
Swayamprabha, Gokhale Nagar, Ramanthapur, Hyderabad - 50013.

...RESPONDENT/PLAINTIFF

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to suspend the operation of the orders Dated. 16/11/2022 in I.A. No. 608 of 2021 in O.S. No. 26 of 2021 passed by the Hon'ble District Court at Nalgonda pending disposal of the Civil Revision Petition.

Counsel for the Petitioner: SRI M. A. MUJEEB

Counsel for the Respondent: SRI S. R. MAHAJIR

The Court made the following: ORDER

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CIVIL REVISION PETITION No.3008 of 2022

O R D E R:

The Civil Revision Petition is filed seeking the following relief:

"... to allow the Civil Revision Petition thereby setting aside the order and decree Dated 16.11.2022 in I.A.No.608 of 2021 in O.S.No.26 of 2021 passed by the Honorable District Court at Nalgonda in the interest of justice and".

2. Mr. M.A.Mujeeb, learned counsel for the petitioner submits that the petitioner is defendant in the suit and the respondents herein has filed a suit for recovery of possession and for other reliefs over the suit schedule property. It is the case of the petitioner/defendant that the suit schedule property is the property of the mother of the petitioner and his brothers, but the gift is conditional gift i.e. as long as the mother of the petitioner is alive, the petitioner and his brothers will not acquire any title and only after her death, the petitioner and his brothers will have equal right over the suit schedule property. As such, the sale deed that is executed in favour of respondent/plaintiff by the petitioner and his brothers is not valid and there is no cause of action for the plaintiff to file the suit. It is stated that the respondent/plaintiff is a company represented by its Director and the plaintiff requires to file resolution of the company authorizing him to file the suit, but no such resolution is filed.

3. Learned counsel for the petitioner submits that no document is filed by the plaintiff to show that the suit schedule property is mutated in the name of the plaintiff and the plaintiff failed to show the ownership of the suit schedule property by documents which disentitled him to file the suit for recovery of possession. It is stated that there is no cause of action for the plaintiff to file the suit and basing on this, the petitioner herein has filed an I.A.No.608 of 2021 under Order 7, Rule 11(a) and (d) of Code of Civil Procedure to reject the plaint and the said application was dismissed by the court below by order impugned dated 16.11.2022 stating that as the petitioner as well as the respondent/plaintiff raised issues which involves ascertainment of facts with reference to the evidence, the I.A cannot be decided now as there are many things involved, it can be determined only after examining the entire evidence, but not at this stage and accordingly dismissed.

4. Learned counsel for the petitioner submits that the petitioner has raised several grounds seeking rejection of the plaint and the court below without considering the same has dismissed the application. He submits that the grounds which are raised by the petitioner can be decided without adducing the evidence. He submits that the court below also failed to take into consideration the

possession and enjoyment of the petitioner over the property running a hotel as its owner.

5. Learned counsel appearing for the respondent/defendant submits that a complete reading of both the plaint as well as documents results in both the cause of action as well as complete entitlement of the plaintiff to all the reliefs would stand established. He submits that the application i.e.LA.No.608 of 2021 filed by the petitioner is without any reasons and as per the settled law, such objections which are raised by the petitioner cannot be decided in an application under Order 7, Rule 11(a) and (d) of CPC. He submits that the suit is filed by the company represented by its Director and the contention of the learned counsel for the petitioner that the Executive of the company did not have any authority to file the suit is also rejected. He submits that the petitioner without any basis, the petitioner has filed this petition and the court below has rightly rejected the petition.

6. Order 7, Rule 11 (a) and (d) of Code of Civil Procedure reads thus:

"Rejection of plaint: The plaint shall be rejected in the following cases-

(a) where it does not disclose a cause of action;

(d) where the suit appears from the statement in the plaint to be barred by any law:

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-paper, 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".

7. When an application is filed seeking rejection of plaint, the court can only look at the plaint and from the plaint, the defendant has to show that there is no cause of action for the plaintiff to file the suit. All the grounds that are raised by the petitioner involves issues to be decided with regard to question of fact and law and for that unless and until necessary evidence is let in, the court cannot consider the application seeking rejection of plaint.

8. Considering all these issues, the court below has rightly rejected the application of the petitioner where there are several questions raised by the petitioner which goes to the root of the matter to decide and the same requires to adduce the evidence of parties.

9. In that view of the matter, there is no illegality with the order impugned dated 16.11.2022 passed by the court below.

10. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

The Miscellaneous Applications, if any shall stand automatically closed.

//TRUE COPY//

SD/-K.AMMAJI
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The District Court, Nalgonda District.
2. One CC to Sri M. A. Mujeeb, Advocate [OPUC]
3. One CC to Sri S. R. Mahajir, Advocate [OPUC]
4. Two CD Copies

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HIGH COURT

DATED: 29/12/2022

ORDER

CRP.No.3008 of 2022



DISMISSING THE CIVIL REVISION PETITION
WITHOUT COSTS

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MA
7/2/23