

THE HONOURABLE SRI JUSTICE A.SANTHOSH REDDY

C.R.P.No.4059 OF 2017

ORDER:

This civil revision petition under Article 227 of the Constitution of India is directed against the order dated 06.06.2017 I.A.No.1822 of 2015 in O.S.No.574 of 2015, on the file of the Principal District Judge, Ranga Reddy District, at L.B.Nagar, wherein the said application filed by the petitioners-defendants under Order VII Rule 11 read with Section 151 CPC seeking rejection of plaint for want of cause of action and payment of deficit Court fee, was dismissed.

2. Heard the learned counsel for the petitioners and learned counsel for the respondent. Perused the record.

3. Respondent-plaintiff filed the suit O.S.No.574 of 2015 against the petitioners-defendants for declaration of title and perpetual injunction. During the pendency of the suit, the petitioners-defendants filed an application in I.A.No.1822 of 2015 under Order VII Rule 11 read with Section 151 CPC seeking rejection of the plaint. It is stated in the affidavit filed in support of the application

that the averments of the plaint do not disclose cause of action and that the Court fee paid by the respondent-plaintiff is not sufficient and on the above two grounds, the plaint is liable to be rejected. The respondent-plaintiff filed counter resisting the claim of the petitioners. After hearing both sides and upon perusing the record, the trial Court, vide order dated 06.06.2017, dismissed the application. Aggrieved by the same, the present revision is filed.

4. It is well settled that while considering an application under Order VII Rule 11 of the CPC, the question before the Court is whether the plaint discloses any cause of action or whether the suit is barred by any law, on the face of the averments contained in the plaint itself. Apart from that, in an application under Order VII Rule 11 of the CPC, the Court is not to look into the strength or weakness of the case of the plaintiff or the defence raised by the defendant. It is also well settled that an application under Order VII Rule 11 of the CPC for rejection of the plaint requires a meaningful reading of the plaint as a whole.

5. The respondent-plaintiff filed the suit for declaration and perpetual injunction in respect of suit schedule property i.e.,

agricultural land admeasuring 925 sq. yards out of Acs.1-20 Gts., in Sy.No.5/A, situated at Inamguda Village, Hayathnagar Mandal, Ranga Reddy District. The averments in the plaint further disclose that the cause of action arose when the petitioners trespassed into the suit property on 18.05.2015 which was in the possession of the respondent-plaintiff, who, having purchased from the same under a registered sale deed and having entered their names in the revenue records. In the cause of action paragraph, it is clearly stated that the petitioners trespassed into the suit property on 18.05.2015 and on 06.06.2015 and 10.06.2015 when the petitioners tried to dispossess the respondent-plaintiff. Apart from that, the pleadings of the plaint clearly goes to show that the title of the respondent-plaintiff is based on a registered sale deed and revenue records i.e., pattadar passbooks and title deeds.

6. In the affidavit filed in support of the application filed for rejection of the plaint, it is contended by the petitioners that there is no cause of action and the suit is filed on the basis of fabricated documents. As rightly appreciated by the trial Court in the impugned order, the issues raised by the petitioners are subject matter of trial

and those contentions cannot be considered at that stage and that the pleadings of the plaintiff do not disclose proper cause of action.

7. On the face of the averments in the plaint, the claim in the suit of the respondent-plaintiff is based on a registered sale deed as well as revenue records i.e., pattadar passbook and title deeds and it is specifically pleaded that the cause of action arose when the petitioners tried to interfere with the possession of the plaintiff over the schedule property.

8. On a meaningful reading of the plaint as a whole and keeping in view the entire plaint pleadings, it is abundantly clear that the relief claimed in the suit is based on proper cause of action and the aspect of Court fee is not a ground to be considered for rejection of plaint, since deficit Court fee can be collected by the trial Court at the appropriate time.

9. For the foregoing reasons, I am of the view that the contentions of the petitioners-defendants that the plaint does not disclose any triable issues and there is no cause of action, are not true and all the contentions now raised for rejection of the plaint are

devoid of merits. Apart from that, the impugned order does not suffer from any infirmity or irregularity warranting interference by this Court under Article 227 of the Constitution of India.

10. In the result, the civil revision petition is dismissed. There shall be no order as to costs.

11. Miscellaneous petitions, if any pending, stand closed.

21.02.2023
Lrkm

A.SANTHOSH REDDY, J