



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Civil Revision Application [CRA] No.25 of 2022

Rajesh Shyambahadur Singh and another

vs.

Shri Kiran Shantayya Chenaveni and others

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

Mr. S.O. Ahmed, Advocate for the Applicants.

Mr. R.M. Tahaliyani, Advocate for Non-Applicant No.1.

CORAM : M.W. CHANDWANI, J.

DATE : 13th MARCH, 2024.

By this application, the applicants challenge the order dated 16/09/2021 passed below Exh.21, thereby rejecting the application of the applicants filed under Order VII Rule 11 of the Code of Civil Procedure (C.P.C.) for rejection of plaint.

02] The contention is that the plaint does not depicts cause of action since two agreements have been filed on record, the plaint does not state the specific performance, of which the agreement is sought. The application for rejection of plaint has been filed vide Exh.21 before the learned trial Court, which has been rejected without considering the fact that the plaint does not disclose cause of action, since no date is mentioned in paragraph 12 of the plaint.

03] The learned Counsel for non-applicant No.1 submits that reading to paragraph 5 and paragraph 12 would reveal the fact that the cause of action is very well there in the plaint. According to him, the cause of action should gather from the plaint by reading the entire plaint.

04] Perusal of paragraph 12 of the plaint, it reveals that cause of action arose on the date when the defendants executed agreement to sale and also arose from time to time, when the defendant Nos.1 to 3 were given earnest amount. Paragraph 5 of the plaint also depicts that the agreement came to be executed and sale-deed was to be executed on 15/01/2021. Therefore, just because in paragraph 12 and paragraph 5, dates have not been mentioned, it cannot be said that the plaint does not depict cause of action. Cause of action is a bundle of facts, which gives rise to file a suit and it is to be gathered by reading the entire plaint as a whole. Therefore, the argument of the applicant is without substance.

05] So far as the submission regarding filing of two agreements by the non-applicant is concerned, perusal of list of documents goes to show that the non-applicant has filed one agreement of token receipt and other one is an agreement. So, according to the learned Counsel for non-applicant No.1, the suit is filed for specific performance of contract of an agreement and not on token receipt. On this count itself, the plaint cannot be rejected. Be that as it may, even if this objection will be available to the non-applicants on merits of the suit. There is no merit in the application. Hence, the application is dismissed. Interim order passed on 08/02/2023 is hereby vacated.

JUDGE