



WEB COPY



A.No.5689 of 2023 in
C.S.No.270 of 2022

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N.SATHISH KUMAR, J.

This petition has been filed by the petitioners/defendants under Order VII Rule 11 CPC to reject the plaint in C.S.No.270/2022.

2. This petition has been filed mainly on the following grounds.

- i) There is no cause of action for filing the suit
- ii) The title of the property is disputed.
- iii) Instead of filing the suit for declaration of title over the property, the plaintiff has filed the suit for mere permanent injunction.
- iv) The suit is undervalued
- v) There was suppression of facts and misleading the court.
- vi) Suit is bad for non-joinder/mis-joinder of necessary parties.

3 According to the petitioners/defendants, they are the owners of the suit property and the respondent/ plaintiff and its representatives, who are the trespassers, had grabbed the land forcibly and took illegal possession of the suit property, without the knowledge of the petitioners. Further, it is contended by them that, the pendency of the writ petitions and other



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proceedings with regard to the suit property have not been pleaded in the
plaint, which is a clear case of suppression of material facts and hence, the
plaintiff has not approached the court with clean hands and without any
cause of action. Hence, the plaint has to be rejected.

4. The suit has been filed by the respondent/plaintiff seeking
permanent injunction, restraining the defendants and their men from
interfering with the plaintiff's peaceful possession and enjoyment of the suit
property, based on the sale deed dated 7.10.2011, registered as document
No.1076 of 2011, purchased by them. It is specifically pleaded by the
respondent/ plaintiff company, by its representative that, from the date of
purchase, they have been in possession of the suit property. It is also stated
in the plaint about the pendency of the writ petitions, challenging the
revenue divisional orders. Further, it is the undisputed fact that, in one of the
writ petitions in W.P.No.2680/2013, this court vide order dated 28.09.2016,
has observed that the competent civil forum has to adjudicate the merits of
the claim projected by the respective parties, in respect of the property,
based on the pleadings and evidence tendered before it. Therefore, merely
because some disputes have been raised by the petitioner/ defendant, it



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cannot be construed that there is no cause of action for filing the suit.

Further, the cause of action has to be seen in the context of the entire allegations and averments made in the plaint, not in a particular paragraph.

On perusal of the entire pleadings of the plaint, this court is of the view that there is a cause of action for filing the suit. Further, for the ground of deficiency of court fee, the plaint cannot be rejected. Because, it can be decided only at the time of final disposal of the case and if the plaintiff succeeds in the suit, the court can grant the relief, only after payment of sufficient court fee.

5. It is to be noted that as per Order 49 Rule 3 of CPC, the rule under Order VII Rule 11 of CPC (rejection of plaint), shall not apply to any Chartered High Court, in the exercise of its ordinary or extraordinary original civil jurisdiction. Therefore, the plaint cannot be straight away rejected, based on the contentions raised by the defendant.

6. As far as the other ground of suppression of material facts is concerned, it is to be noted that the respondent/ plaintiff has pleaded about the pendency of the writ petitions in the plaint. Whether the facts are



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material or not is a matter of evidence to be gone into by way of letting evidence and for this ground, the plaint cannot be rejected at the thresh hold.

7. The yet another ground for rejection of plaint is that the suit is bad for non joinder/misjoinder of proper parties. On this ground also, the plaint cannot be rejected at this stage. However, on perusal of the records, it reveals that the defendants 3 and 4, the legal heirs of the deceased first defendant were brought on record, vide order dated 28.02.2023 in Application No.881/2023. The one more ground for rejection of plaint is that, instead of seeking declaration, the plaintiff has sought for permanent injunction. For this ground also the plaint cannot be rejected, because, the respondent/plaintiff being in possession of the property, has filed the suit and sought for permanent injunction as stated supra. It is also the contention of the petitioners that, the respondent/ plaintiff is in possession of the suit property. Whether the possession of the plaintiff is legal or illegal, can be decided only after full fledged trial, not at this stage. Also, for the ground of denial of title also, the plaint cannot be rejected, because it should be gone into only during trial by way of letting oral and documentary evidence. From the above discussion, this court is of the view that there is



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no grounds to reject the plaint as sought for by the petitioners/defendants
and hence, this petition is liable to be dismissed.

8. Accordingly, this petition is dismissed.

26.03.2024
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