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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of Decision: 14th October, 2024***

+ CM(M) 3601/2024 & CM APPL. 60199/2024 & CM APPL.
60200/2024

RAJ BALA GARG

.....Petitioner

Through: Mr. G Kumar Pathak with Mr. Anand
Kumar, Mr. Shaksham Kumar and Mr.
Hem Kumar, Advocates.

versus

NAVEEN BHATIA & ORS.

.....Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN
J U D G M E N T (oral)

1. Petitioner is defending a civil suit filed by respondents under Section 6 of Specific Relief Act, 1963 whereby they seek recovery of possession of the property in question which is stated to be situated at WZ-9, Dayal Sar Road, Uttam Nagar, New Delhi-110059.
2. Petitioner had moved an application under Order VII Rule 11 read with Section 151 CPC seeking rejection of the suit on multiple grounds. It was also the ground that there was nothing to indicate that the plaintiffs were having possession of the suit property. It is submitted that, on the other hand, defendant had filed an FIR with the concerned Police Station way back on 31.07.2021 in which she had, categorically, claimed that she was in



possession of the suit property and such fact could not have been disregarded by the learned Trial Court while considering the above said application.

3. It is no longer, *res integra*, that while deciding any such application moved under Order VII Rule 11 CPC, the Court is required to confine itself to the basic averments made in the plaint. It is not permissible for the Court to see the defence raised by the defendant or, for that matter, the documents on which the defendant seeks to rely upon. While referring to *Srihari Hanumandas Totala v. Hemant Vithal Kamat (2021) 9 SCC 99: 2021 SCC OnLine SC 565*, learned Trial Court came to the conclusion that there was no reason to reject the plaint.

4. As noted, the rejection had been sought on multiple grounds, *inter alia*, the suit being barred by *res judicata* under Section 11 CPC, the suit being barred by law of limitation, the suit being barred on the ground that the licensee could not sue for recovery of possession and also on the ground that it was liable to be rejected under Section 41(h) and 41 (i) of the Specific Relief Act, 1963. It was also agitated that the suit was liable to be rejected for not paying the requisite court fee.

5. Barring the last ground, the learned Trial Court did not concur with any of the submissions made by the defendant and refused to reject the suit. However, in context of there being non-payment of requisite court fee, the learned Trial Court, while coming to the conclusion that the suit was undervalued, permitted the plaintiff a period of two weeks to make up the deficiency in this regard.

6. This Court has gone through the averments made in the suit in question and as already observed above while considering any such application moved under Order VII Rule 11 CPC, the Court is merely required to confine itself to



the averments made in the plaint and these averments have to be taken on its face value and have to be assumed as gospel truth. Reference be made to *P.V. Guru Raj Reddy and Another vs. P Neeradha Reddy and Others* : (2015) 8 SCC 331 and *Dahiben vs. Arvindbhai Kalyanji Bhanusali (Gajra) dead through legal representatives and others*: (2020) 7 SCC 366.

7. There are specific averments regarding the plaintiff being in possession of the suit property and also being dispossessed on 17.09.2022. Relevant paras of the plaint read as under:-

“17. That when no action was taken on the said complaint of plaintiffs by the local police of PS: Bindapur, then the plaintiffs had moved another complaint to the concerned DCP at Sector 19, Dwarka, New Delhi on 30.09.2022, which was duly received at the office of DCP vide diary No. 17154 dated 30.09.2022.

18. That now the defendant has placed a poster on the suit property thereby declaring her-self to be the owner and inviting buyers for the suit Property and in case the defendant got succeed in her illegal designs then the Plaintiffs shall suffer irreparable loss which cannot be compensated in any terms.

19. That cause of action for filing the present suit against the defendant by the plaintiffs had arisen on all the dates when the defendant had tried many times to enter into the suit property by adopting illegal means but could not succeed in her illegal designs, regarding which illegal attempts of trying to enter into the suit Property by the defendant, many complaints have been made by the plaintiffs to SHO Bindapur on different dates i.e. 18.06.2021, 18.07.2021, 05.09.22, 07.09.22, 10.09.22 and 15.09.22, the cause of action further arose on 17.09.2022 when the defendant had entered into the suit property illegally by breaking locks of the suit property in collusion with her son Puneet Garg and her brother Anil and 5 windows (wooden with iron fixed glazing), 3 doors, 300 Kg iron Saria and 35 cement bags were found stolen from the suit property of the plaintiffs which have been stolen by the defendant in collusion with aforesaid son and brother, the cause of action further arose on 27.09.2022, when the plaintiffs had made a written complaint to the SHO PS Bindapur which has been duly received at PS Bindapur Vide complaint No. 00081760012204168, dt.27.09.2022, the cause of action again arose on 30.09.2022, when the



plaintiffs had made another complaint to the concerned DCP at Sector 19, Dwarka, New Delhi on 30.09..2022, which was duly received at the office of DCP vide diary No. 17154 dated 30.09.2022, the cause of action is still subsisting and continuous as the defendant is in illegal possession of the suit property of the plaintiffs as the possession of the suit property has been acquired by the defendant with illegal means and without following the due process of law and has placed poster on the suit property thereby inviting prospective buyers.”

8. The suit was filed on 12.12.2022 and, therefore, it cannot be said that the suit is not within the prescribed period of limitation.
9. In view of the above, this Court does not see any reason to interfere with the impugned order.
10. The petition is, accordingly, dismissed in *limine*.

(MANOJ JAIN)
JUDGE

OCTOBER 14, 2024/sw