

**\* HON'BLE SRI JUSTICE C.V. BHASKAR REDDY**

**+ CIVIL REVISION PETITION No.3270 of 2023**

**% Date: 24.01.2024**

**Between:**

Chandan Khandewal

and others.

... Petitioners

AND

G. Ramakrishna Reddy

and others.

... Respondents

**! Counsel for the Petitioners** : Sri A. Narasimha Rao

**^ Counsel for the Respondents** : Sri Kiran Palakurthi

**> HEAD NOTE:**

**? Cases referred**

- 1) (2008) 4 SCC 594
- 2) (2021) 9 SCC 99
- 3) (2017) 13 SCC 174
- 4) (2012) 8 SCC 706
- 5) (2007) 10 SCC 59
- 6) 2023 SCC Online SC 1270
- 7) (2022) 7 SCC 731
- 8) (2003) 1 SCC 557
- 9) (2007) 15 SCC 52

**THE HON'BLE SRI JUSTICE C.V.BHASKAR REDDY****CIVIL REVISION PETITION No.3270 of 2023****ORDER:**

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioners herein/defendant Nos.1 to 3, challenging the order, dated 19.10.2023, passed in I.A.No.344 of 2023 in O.S.No.1 of 2023, by the learned Principal District Judge, at Narayanpet, whereby, the application filed by the petitioners herein/defendant Nos.1 to 3 under Order VII Rule 11(a)&(d) r/w Section 151 of CPC, seeking to reject the plaint, was dismissed by the Court below.

2. The petitioner Nos.1 to 3 herein are the defendant Nos.1 to 3 in the suit and the respondent Nos.1 to 4 herein are the plaintiff Nos.1 to 4 in the suit. For the sake of convenience, hereinafter the parties are referred as they were arrayed in the suit.

3. The brief facts of the case are that, the plaintiffs filed the suit vide O.S.No.1 of 2023 on the file of Principal District Judge, at Narayanpet, seeking perpetual injunction against the defendants. The plaintiff No.2 claims to have purchased land admeasuring Ac.0.10 gts equivalent to 0.10 Hectares in Sy.No.280 situated at Makthal Town, under a registered sale deed dated 15.05.1984 bearing document

No.648/1984. Plaintiff No.3 claims to have purchased land admeasuring Ac.0.10 Gts equivalent to 0.10 Hectares in Sy.No.280 situated at Makthal Town, under a registered Sale deed dated 14.05.1984 bearing document No.632/1984. Smt.G.Anasuya, wife of plaintiff No.1 claims to have purchased Plot No.3 admeasuring 300 Sq.yds in Sy.No.280 situated at Makthal town, under a registered sale deed dated 27.06.1984 bearing document No.1019/1984. Smt.G.Anasuya also claims to have purchased Plot No.2 admeasuring 150 Sq.yds land in Sy.No.280 situated at Makthal Town, under a registered sale deed dated 27.06.1984 vide document No.1020/1984. It is stated that Smt.G.Anasuya expired on 24.12.2019 leaving behind the plaintiff Nos.1 to 4 as her legal heirs and the plaintiffs succeeded the properties acquired by late Smt G.Anasuya and are in possession and enjoyment of the said property. It is the case of the plaintiffs that while the things stood thus, one Smt.Parvathamma and her sons namely Laxmikantha Reddy, Madhusudan Reddy, Virat Reddy and Bhaskar Reddy claiming to be legal heirs of Nagi Reddy, started interfering with the possession of plaintiffs alleging that the plaintiffs had claimed land admeasuring Ac.0.26 Gts in Sy.No.4 as that of land admeasuring Ac.0.24 Gts in Sy.No.280. It is further case of plaintiffs that pursuant to the said rival claims, the Sub-Inspector of Police filed a case before the Sub-divisional Magistrate, Narayanpet requesting to initiate proceedings under Sec.145 of Code of Criminal Procedure

(Cr.P.C) against the plaintiffs as well as legal heirs of Nagi Reddy namely Smt.Parvathamma Madhusudhan Reddy and Bhaskar Reddy and in view of apprehension of breach of peace and disturbance to the public tranquillity in the village, the property was taken into the custody with the standing crops as required under Sec 146(1) of Cr.P.C and the Mandal Revenue Officer, Makthal, was appointed as "Receiver". Thereafter, Sub-Divisional Magistrate, Narayanpet, having been satisfied that the proceedings issued under Section 145 Cr.P.C are no longer required, passed an order dated 20.10.1990 revoking the earlier proceedings No.C/487/87 dated 21.03.1987. In view of the same, the M.R.O, Makthal vide Memo No.A/2783/90 dated 24.01.1991 delivered possession of land admeasuring Ac.0-24gts in Sy.No.280 to the plaintiff No.1. It is further case of the plaintiffs that inspite of the orders of the Sub-Divisional Magistrate, Narayanpet, the legal heirs of Nagi Reddy namely Parvathamma, Laxmikantha Reddy Virat Reddy and Bhaskar Reddy again started interfering with the possession of plaintiffs, which compelled the plaintiffs to file a suit vide O.S.No.29 of 1991 on the file of Junior Civil Judge at Narayanpet. After contest, the said suit was decreed vide judgment and decree dated 31.01.2005 upholding the right, title and possession of the plaintiffs. Aggrieved by the same, Smt Parvathamma and her sons preferred appeal vide A.S.No.3 of 2005 on the file of Senior Civil Judge, Narayanpet and the same was dismissed vide judgment dated

03.06.2006. Challenging the same, the defendants therein filed Second Appeal No.1160 of 2006 on the file of this Court and the same is pending for adjudication. It is further case of the plaintiffs that while the things stood thus, they have received copy of caveat applications filed by the defendants herein, wherein it was stated that they purchased lands admeasuring Ac.0.15 Gts in Sy.No.280/A/A and Ac.0.20 Gts in Sy.No.280/A/A situated at Makthal Village and Mandal and that they were in possession and enjoyment of the said lands and also stated that they have obtained permission under the provisions of NALA Act. Thereafter, the plaintiffs got verified with Tahsildar-cum-Joint Sub-Registrar and came to know that defendant No.1 purchased an extent of Ac.0-20 Gts in Sy.No.280/A/A vide document No.1987/2022 dated 27.10.2022 and defendant No.2 purchased an extent of Ac.0.15 Gts in Sy.No.280/A/A vide document No.1984/2022 dated 27.10.2022, the defendant No.2 also purchased an extent of Ac.0-06gts in Sy.No.280/A/A vide document No.1990/2022 dated 09.11.2022. The case of the plaintiffs is that said sale deeds are fabricated, sham and bogus documents and they were created only for the purpose of making false claim over the suit schedule property and the said sale deeds do not create any right or interest and the defendants were never in possession of the said lands basing on those sale deeds and therefore, the plaintiffs instituted the present suit for injunction.

4. The defendant Nos.1 to 3 filed their written statement denying the right and title of the plaintiffs over the suit schedule property and stated that they have purchased the property from lawful owners and also obtained permission for converting the agricultural lands into non-agricultural purpose. It is further stated that the suit filed by the plaintiffs for bare injunction is not maintainable and ultimately prayed to dismiss the suit.

5. During the pendency of the suit, the defendants filed the subject I.A.No.344 of 2023 under Order VII Rule 11 (a) & (d) r/w Section 151 of CPC seeking to reject the plaint. In the affidavit filed in support of the application, it is stated by the defendants that they are lawful owners and possessors of their respective lands, having purchased the same under registered sale deeds. It is further stated that even after filing caveat petition and coming to know that they have purchased the property under registered sale deeds, the plaintiffs instead of filing the suit for declaration, have filed the subject suit for perpetual injunction without claiming title over the property. Therefore, the suit filed by the plaintiffs for bare injunction is not maintainable and the same is hit by Section 41(h) of Specific Relief Act and prayed to reject the plaint exercising the power under Order VII Rule 11(a) & (d) r/w Section 151 of CPC.

6. The plaintiffs filed counter affidavit to the I.A.No.344 of 2023 stating that affidavit filed in support of the subject application does not contain any valid ground and the same does not fall within the grounds as enumerated in Order VII Rule 11(a) & (d) of CPC. It is further stated that the plaintiffs are enjoying the suit schedule lands without any interference or interruption and the defendants with a *mala fide* intention have filed caveat petition. It is specifically denied that the defendants failed to show that, how the plaint is liable to be rejected without referring to the plaint averments. It is stated that for rejection of plaint under Order VII Rule 11 of CPC, the only material to be considered is the plaint, but not any defence or otherwise of the defendants. It is further stated that Section 41(h) of Specific Relief Act, 1963 is not applicable to the facts of the case and as the defendants failed to substantiate their contentions bringing the case within the fold of Order VII Rule 11 CPC, the subject application is liable to be dismissed.

7. The Court below after hearing both sides, framed the point for consideration as “*Whether the suit for injunction simplicitor without seeking the relief of declaration of title and also by virtue of Section 41(h) of Specific Relief Act, is maintainable? If so, the plaint can be rejected under Order VII Rule 11(a) (d) of CPC?*” and after considering the material on record, had passed the impugned order dated

19.10.2023 dismissing the subject I.A.No.344 of 2023 holding that the plaintiffs have shown cause of action for filing the suit and that the suit is filed within the period of limitation. It was further observed that Civil Courts in the earlier litigation have already declared the plaintiffs as owners and possessors of suit schedule land. Aggrieved by the same, the revision petitioners/defendants filed the present Civil Revision Petition.

8. Considered the rival submissions of the learned counsel for the respective parties and perused the record.

9. The learned counsel for the revision petitioners/defendants has vehemently contended that suit for mere injunction without seeking declaration of title is not maintainable. It is further submitted that in the caveat petition, the defendants have specifically asserted their title acquired by way of registered of sale deed and therefore, the plaintiffs ought to have instituted the suit for declaration of title and in the absence of the same, the plaint filed by the plaintiffs is liable to be rejected under Order VII Rule 11 of CPC. It is also stated by the learned counsel that where possession has to be established on the basis of title to the property, as in the case of vacant sites, the issue of title may directly and substantially arise for consideration, as without a finding thereon, it will not be possible to decide the issue of possession, in that event the suit for mere injunction is not

maintainable. It is also stated that if the allegations in the plaint are vexatious and meritless and not disclosing a clear right to sue, then it is the duty of the trial Court to exercise its power under Order VII Rule 11 of CPC for rejecting the plaint at the threshold rather than subjecting the parties for trial. It is further argued by the learned counsel that prayer for declaration is necessary where there is a denial of title by defendants or challenge to the plaintiff's title which rises a cloud on the title of Plaintiff to the property. When the defendants have specifically denied the title of plaintiffs, the plaintiffs ought to have instituted a suit for declaration of title rather than instituting the suit for bare injunction, which is hit by Section 41(h) of Specific Relief Act. It is further contention of the learned counsel that an injunction cannot be granted when equally efficacious relief can certainly be obtained by any other usual mode of proceeding except in case of breach of trust injunction can be refused. The learned counsel also argued that observation of the Court below that a Plaint can be rejected under Order VII Rule 11(d) of CPC only if it is barred by limitation is incorrect, as the said provision enables the Court to reject plaint, which is barred by any law. Further the observation of the Court below that the suit was filed within the period of limitation and therefore, the provisions of Order VII Rule 11(d) of CPC does not apply, is erroneous. It is submitted that the impugned order dated 19.10.2023 passed by the Court below is liable to be set aside and

prayed this Court to allow the Civil Revision Petition as prayed for. In support of his submissions, the learned counsel relied upon the decision reported in ***Anathula Sudhakar vs. P. Buchi Reddy (dead) by LRs and others***<sup>1</sup>.

10. Per contra, the learned counsel for the respondents herein/ plaintiffs has strenuously contended that none of the grounds projected by the revision petitioners/defendants fall within the provisions of Order VII Rule 11 of CPC to reject the plaint at the threshold. It is further contended that while deciding the application filed under Order VII Rule 11 CPC, the Court has to look into the averments of the plaint and the documents filed along with the plaint but not the defence taken by the defendants in the written statement. It is further contended by the learned counsel that a plain reading of the plaint filed by the plaintiffs conspicuously discloses cause of action. It is submitted that the contention of the defendants that plaintiffs did not seek relief of declaration of title is not a ground to reject the plaint. It is the prerogative of the plaintiffs to plead the suit and the relief under concept of *dominus litus*. If at all there is any flaw in framing of suit and prayer, it is the plaintiffs who suffer and it will not cause any prejudice to the defendants. The decision relied upon by the defendants is not applicable to the facts and circumstances of

---

<sup>1</sup> (2008) 4 SCC 594

the case on hand. It is further submitted that Section 41(h) of Specific Relief Act is not applicable to the subject suit. When application has been filed under Order VII Rule 11 of CPC, duty is cast upon the party who files such application to plead and establish his case within the parameters of the grounds mentioned in Order VII Rule 11 of CPC. It is further stated by the learned counsel that the issue of limitation is a mixed question of fact and law and it cannot be decided in an application filed under Order VII Rule 11 CPC and the subject suit is filed within the period limitation as prescribed under Article 113 of Limitation Act. As such, the Court below rightly dismissed the subject I.A.No.344 of 2023 filed by the defendants and there is no illegality in the impugned order passed by the Court below and ultimately prayed to dismiss the Civil Revision Petition. In support of his submissions, the learned counsel relied upon the following decisions:

***i) Srihari Hanumadas Totala vs. Hemant Vithal Kamat and others***<sup>2</sup>

***ii) Madanuri Sri Rama Chandra Murthy vs. Syed Jalal***<sup>3</sup>

***iii) Church of Christ Charitable Trust and Educational Charitable Society vs. Ponniamman Educational Trust***<sup>4</sup>

***iv) Ram Prakash Gupta vs. Rajiv Kumar Gupta and others***<sup>5</sup>

***v) G. Nagaraj and another vs. B.P. Mruthunjayanna and others***<sup>6</sup>

---

<sup>2</sup> (2021) 9 SCC 99

<sup>3</sup> (2017) 13 SCC 174

<sup>4</sup> (2012) 8 SCC 706

<sup>5</sup> (2007) 10 SCC 59

<sup>6</sup> 2023 SCC Online SC 1270

**vi) Sri Biswanath Banik and another vs. Sulanga Bose and others<sup>7</sup>**

11. In view of the above submissions, the point for determination in this Civil Revision Petition is:

*“Whether the impugned order dated 19.10.2023 passed in I.A.No.344 of 2023 in O.S.No.1 of 2023 by the learned Principal District Judge, Narayanpet, is legally sustainable?”*

12. **POINT:** The case of the revision petitioners/defendants is that they are the owners and possessors of suit schedule land, having purchased the same from B.Ramanna, who is the husband of defendant No.4 in O.S.No.1 of 2023. It is further case of the defendants that since they have purchased the property under registered sale deeds and said fact is known to the plaintiffs, instead of taking appropriate recourse by instituting a suit for declaration of title, the plaintiffs have filed the subject suit for injunction and when there is a cloud with regard to title claimed by the plaintiffs, the suit for mere injunction is not maintainable. Further, there is no cause of action to file the present suit and therefore, the plaint has to be rejected at the threshold under Order VII Rule 11 (a)&(d) of CPC.

13. On the other hand, it is the case of the respondents herein/ plaintiffs that plaintiff Nos.2 and 3 purchased the lands admeasuring

---

<sup>7</sup> (2022) 7 SCC 731

Ac.0.10 gts and Ac.0.10 gts in Sy.No.280 situated at Makthal Town, under a registered sale deeds dated 15.05.1984, 14.05.1984, Smt.G.Anasuya, wife of plaintiff No.1 claims to have purchased Plot Nos.2 and 3 admeasuring 300 Sq.yds and 150 sq.yards respectively in Sy.No.280 situated at Makthal town, under registered sale deeds dated 27.06.1984. When the legal heirs of Late Nagi Reddy namely Parvathamma, Laxmikantha Reddy, Virat Reddy and Bhaskar Reddy, interfered with the possession of plaintiffs, plaintiffs filed a suit vide O.S.No.29/1991 on the file of Junior Civil Judge, Narayanpet and the same was decreed in favour of the plaintiffs. Challenging the same, the defendants therein filed A.S.No.3 of 2005 on the file of Senior Civil Judge, Narayanpet, and the same was dismissed vide judgment dated 03.06.2006. Aggrieved by the same, second Appeal vide S.A.No.1160/2006 was filed on the file of this Court and the same is pending for adjudication. Further, it is the case of the plaintiffs that the respondents fraudulently created sale deeds and illegally tried to grab their lands and therefore, they filed the subject suit for injunction and the same is maintainable.

14. It is settled principle of law that the Court is competent to reject a plaint at any stage of proceeding if it finds that conditions under Order VII Rule 11 of CPC exist. The Court cannot take into account the materials beyond the plaint to declare the case of the plaintiffs as

frivolous and vexatious. While considering the application filed under VII Rule 11 of CPC, the Court is not required to take into consideration the defence set up by the defendant in the written statement. The question whether the plaint discloses any cause of action is to be decided by looking at the averments contained in the plaint itself but not the defence set up in the written statement. While examining the said issues, the strength or weakness of the case of the plaintiffs should not be seen. In order to reject the plaint under Order VII Rule 11 of CPC, the Court has to scrutinise the averments/pleas in the plaint, the pleas taken by the defendant in the written statement are wholly irrelevant and the matter is to be decided only on the plaint averments. If the allegations are vexatious and meritless and not disclosing a clear right to material(s) to sue, it is the duty of the trial Court to exercise its power under Order VII Rule 11 of CPC. Merely because the cause of action in the plaint is vague and incomplete it is not a ground for rejection of the plaint. It is settled principle of law that there is a difference between non-disclosure of cause of action in the plaint and the absence of cause of action for the suit. The ground for rejection of plaint is failure to disclose a cause of action and not that there is no cause of action for the suit. It is not competent for the Court to go into the correctness or otherwise of the allegations constituting the cause of action and the same is beyond the scope of Order VII Rule 11 of CPC. What is required to be

disclosed by the plaintiff is a clear right to sue and failure to do so must necessarily entail in rejection of the plaint.

15. In **Saleem Bhai vs. State of Maharashtra**<sup>8</sup>, the Hon'ble Supreme Court observed as follows:

*9. A perusal of Order 7 Rule 11 CPC makes it clear that the relevant facts which need to be looked into for deciding an application thereunder are the averments in the plaint. The trial court can exercise the power under Order 7 Rule 11 CPC at any stage of the suit — before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of deciding an application under clauses (a) and (d) of Rule 11 of Order 7 CPC, the averments in the plaint are germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage, therefore, a direction to file the written statement without deciding the application under Order 7 Rule 11 CPC cannot but be procedural irregularity touching the exercise of jurisdiction by the trial court..*

16. In **Jageshwari Devi v. Shatrughan Ram**<sup>9</sup>, the Hon'ble Supreme Court observed as follows:

*3. We have heard learned counsel for the parties. We have perused the order of the trial court and of the High Court. We have also perused the plaint filed by the respondent herein. The main ground on which rejection of the plaint was sought was that the plaint does not disclose a cause of action which is a ground specified under Order 7 Rule 11(a) CPC. The trial court on consideration of the averments in the plaint held, and in our view rightly, that it could not be held that the plaint does not disclose a cause of action. It is relevant to state that there is a difference between the non-disclosure of a cause of action and defective cause of action: while the former comes within the scope of Order 7 Rule 11, the latter is to be decided during trial of the suit. The contention raised on behalf of the*

---

<sup>8</sup> (2003) 1 SCC 557

<sup>9</sup> (2007) 15 SCC 52

*appellant that the cause of action disclosed is vague and incomplete, is not a ground for rejection of the plaint, under Order 7 Rule 11 CPC no exception can be taken to the order.*

17. In the instant case, it is the case of the defendants that they have sent a copy of caveat petition to the plaintiffs stating that they have purchased lands admeasuring Ac.0-15gts in Sy.No.280/A/A and Ac.0-20gts in Sy.No.280/A/A, situated at Makthal Village and Mandal, under sale deeds dated 27.10.2022 and therefore, the plaintiffs ought to have filed a suit for declaration of title and injunction instead of suit for mere injunction. Admittedly, there is no dispute with regard to the earlier litigation of the plaintiffs with the legal heirs of Nagi Reddy and plaintiffs succeeded in the legal proceedings and both the trial Court and the First Appellate Court passed orders in favour of the plaintiffs that they were in possession and enjoyment of their lands. The only claim of the defendants is that the land of plaintiffs admeasuring Ac.0.20gts was acquired by the Government and compensation was paid to them and the remaining extent of Ac.0-04gts was occupied by others and constructed shops therein and as such no single inch of land was available to the plaintiffs to seek equitable relief of injunction. The Court below observed that defendants did not file any acceptable material before it for perusal of the same. Admittedly, the Court below granted temporary injunction in favour of the plaintiffs vide order dated

23.01.2023 passed in I.A.No.17 of 2023 restraining the defendants from interfering with the possession and enjoyment of the plaintiffs over the suit schedule land. It is specifically stated by the plaintiffs in their plaint that the cause of action initially arose on 27.10.2022 and 09.11.2022, when the defendants fabricated and created fraudulent sale transactions to defeat the interest of the plaintiffs and also on 09.01.2023 when the defendants illegally tried to grab their land. Therefore, *prima facie* the plaintiffs have shown that there is a cause of action for filing the subject suit. The Court below has carefully considered the contentions of the respective parties with regard to ownership and title and duly taking into consideration the averments made in the plaint, observed that defendants failed to file acceptable material to reject the plaint at the threshold. The contentions raised by the defendants are required to be examined after full-fledged trial but not at this stage. The case of the defendants does not fall within the grounds enumerated in Order VII Rule 11 of CPC. Therefore, the plaint on the face of it, does not disclose any fact that may lead this Court to come to conclusion that it deserves to be rejected on the ground that the plaint does not disclose cause of action and that it is barred by law of limitation. The decision relied upon by the learned counsel for the revision petitioners/defendants is not applicable to the facts and circumstances of the case on hand. Thus, there is no illegality or infirmities in the impugned order dated 19.10.2023

passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India. Accordingly, this point is answered.

18. In the result, this Civil Revision Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand closed.

---

**C.V.BHASKAR REDDY, J**

Date: 24.01.2024

**Note:** L.R Copy to be marked: YES/NO

(b/o)

scs