

**IN THE HIGH COURT OF TELANGANA AT HYDERABAD**

**C.R.P.NO.904 OF 2023**

**Between:**

D.K.Shruthi

... Petitioner

And

Shaik Munna Basha

... Respondent

**JUDGMENT PRONOUNCED ON: 05.06.2023**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

1. Whether Reporters of Local newspapers : yes  
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : yes  
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : yes  
see the fair copy of the Judgment?

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**SUREPALLI NANDA, J**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA****C.R.P.NO.904 OF 2023**

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.....Respondent

< Gist:

> Head Note:

! Counsel for the Petitioners : M/s Poojari Srilekha

^ Counsel for the Respondents: Mrs Vladimeer Khaton

? Cases Referred:

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

**C.R.P.NO.904 OF 2023**

**ORDER:**

**Heard learned counsel for the petitioner and learned counsel for the respondent.**

2. For the sake of convenience the parties are referred to as they are arrayed in the suit before the lower Court.

3. This civil revision petition is preferred against the order dated 24.01.2023 in I.A.No.786 of 2022 in O.S.No.196 of 2022 on the file of the Principal Junior Civil Judge at Gadwal, whereunder the petition filed by the defendant under Order VII Rule 11(a), (b) and (d) of the Code of Civil Procedure seeking rejection of the plaint was dismissed.

4. The defendant filed I.A.No.786 of 2022 under Order VII Rule 11(a), (b) and (d) of the Code of Civil Procedure seeking rejection of the plaint mainly on the ground that there is no cause of action, that the suit is barred by limitation under Article 65 of the Limitation Act, 1963 and that the relief claimed in the suit is undervalued.

5. The plaintiff filed counter to the petition contending mainly that the cause of action, the question of limitation and the alleged under valuation of the suit are mixed questions of fact and law and so evidence needs to be adduced for giving decision thereon and therefore, the plaint cannot be rejected at the threshold.

**PERUSED THE RECORD**

6. The plaintiff filed the suit for declaration of title and recovery of possession of the suit land of Ac.0.11 guntas in Survey No.90 and for cancellation of the sale deed bearing document No.7964 of 2012, dated 27.09.2012.

7. The case of the plaintiff in brief is that he purchased a total extent of Ac.18.12 guntas, which includes 0.12 guntas in Survey No.90 under registered sale deed dated 10.02.2011 from Sri Kampati Venkatramulu and ever since he had been in possession and enjoyment of the said land. He got the land mutated in his name in revenue records. The suit land is part of 0.25 guntas in Survey No.90 out of the total extent of Ac.18.12 guntas purchased under the sale deed dated 10.02.2011, mentioned above, while so the vendor of the

plaintiff created registered sale deed bearing document No.7964 of 2012, dated 27.09.2012, showing that he has sold 0.11 guntas out of 0.25 guntas in Survey No.90 in favour of the defendant for a sum of Rs.28,000/-. That sale deed is null and void since the vendor of the plaintiff having already sold the land to the plaintiff, had no title to convey the same to the defendant under the sale deed dated 27.09.2012.

8. The plaintiff's vendor, the defendant and their men on 09.12.2021 came to the suit land and dispossessed the plaintiff of their land.

9. The defendant filed written statement denying the case of the plaintiff and asserting her title over the suit land on the strength of the alleged sale deed dated 27.09.2012. She alleged that the cause of action pleaded by the plaintiff is illusory and that she has been in possession of the suit land for the last more than ten years and so she perfected her title over the land and so the suit is barred by limitation under Section 65 of the Limitation Act and that the Court fee paid is not correct.

10. It is trite law that it is only the plaint averments that have to be considered to decide whether the plaint is liable to be rejected under Order VII Rule 11 (a)(b) and (d) of C.P.C. as contended by the defendant.

11. As regards the cause of action, in para IV of the plaint, it is stated that the cause of action arose in the month of August, 2021 when the defendant issued legal notice and the reply given by the plaintiff on 15.09.2021 and subsequently when his vendor and the defendant along with their men came and forcibly took possession from the plaintiff on 09.12.2021. The contention of the defendant is that as on 09.12.2021, the admitted case of the plaintiff is that he was not in possession of the suit land since he had been dispossessed on that day and as such the cause of action is illusory. This contention is devoid of substance. The reason is that the plaintiff's case is that he was in possession of enjoyment of suit land from the date of purchase till 09.12.2021 on which date he was dispossessed of the land and so cause of action arose on that day.

12. Cause of action is a bundle of facts and since the defendant denied the cause of action pleaded by the plaintiff, the question that is the issue whether the cause of action for the suit is true or illusory can be decided only after holding trial.

13. Coming to the question of limitation, according to the plaintiff, he was in possession and enjoyment of the land from the date of purchase in the year 2011, till he was allegedly dispossessed on 09.12.2021, whereas the claim of the defendant is that he has been in possession and enjoyment of the land from 27.09.2012 on which date he allegedly purchased the land. So the question whether the suit is barred by limitation is a mixed question of fact and law and so the same has to be decided after holding a full fledged trial.

14. Regarding the Court Fee, the question whether the Court Fee paid is sufficient or not can be decided by holding trial.

15. A perusal of the order impugned dated 24.01.2023 in I.A.No.786 of 2022 in O.S.No.196 of 2022 on the file of the Principal Junior Civil Judge at Gadwal shows that the learned

trial Court after considering the material on record came to a right conclusion that the plaint is not liable to be rejected under Order VII Rule 11 (a)(b) and (d) and hence, there is no irregularity or illegality in the order passed by the lower Court.

16. In the result, there are no merits in the civil revision petition and accordingly, the same is dismissed. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

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**SUREPALLI NANDA, J**

Date: 05.06.2023

Note : L.R. copy to be marked

b/o

Kvrm