

27.09.2024

Present: Sh. Roshan Lal Saini Ld. Counsel for plaintiff through VC.
Ms. Mani Mala Roy Ld. Counsel for defendant no.1 through VC.

Matter is fixed for orders on application Order 7 Rule 11 r/w section 151 of CPC.

1. The present application Order 7 Rule 11 CPC has been filed by defendant no.1 seeking rejection of plaint on the grounds that the plaint of plaintiff is bad for non disclosure of cause of action, improper valuation of suit and also this Court has no territorial jurisdiction to try the present matter.

2. Reply filed by plaintiff. However, it is settled law that at the time of deciding application Order 7 Rule 11 CPC the contents of plaint and documents of plaintiff are to be taken into account.

3. Arguments heard, record perused and considered.

4. Ld. Counsel for defendant relied upon the judgments i.e. (i) Priti Pratap Singh vs. The Sariska Palace & Ors. decided on 28 May, 2013, High Court of Delhi and (ii) Sh. Rajendra Sharma vs. Antriksh Developers & Promoters Pvt., on 1 July, 2023.

5. On careful perusal of plaint, it is revealed that by way of present suit the plaintiffs are seeking decree of mandatory and permanent injunction to restrain the defendants from entering the dwelling house of plaintiff and from threatening or contacting the plaintiff in any form and also to direct them to stay away from the plaintiff. The plaintiff is also seeking damages in the present suit. The contents of plaint has been scrutinized and this Court is of the opinion that the grounds taken by defendant in the present application are not maintainable for the reasons mentioned below:

a. The plaintiffs, in para no.15 of plaint have disclosed the cause of action which says that the defendants entered forcefully into the house of plaintiff on 09.04.2023 at 06:15 p.m., used abusive language and assaulted plaintiff no.1 to 3. It is further averred in the same para that the plaintiff no.4 was forced by them to ask the Australian police to release the defendant no.4 and the defendants only after release of defendant no.4 returned back around 12:30 a.m. after giving threatenings to the plaintiffs.

b. As far as, the plea of defendants that this Court has no territorial jurisdiction to try the present matter, is concerned, it is clear from the plaint that the defendant no.1 and 2 are residing at Vidisha Apartments, I.P. Extension, Delhi-110092, very well in the territorial jurisdiction of this Court. As per the provisions of Sec. 20 of CPC, suit for mandatory injunction may be instituted in a Court within the local

limits of whose jurisdiction the defendant, or each of the defendants where there are more than one, at the time of commencement of the suit, actually and voluntarily resides or carries on business, or personally works for gain. I have gone through the judgments relied upon by the defendant, those cases are distinguishable and not applicable to the present case as in both the cases the dispute was related to the construction of immovable property and in the case in hand, the plaintiff is seeking permanent and mandatory injunction for restraining the defendants from entering the dwelling house of plaintiff and threatening or contacting the plaintiff in any form and also direction to stay away from the plaintiff.

c. So far as, the Court fees is concerned, Section 7 of the Court Fees Act, 1870 provides for computation of fees payable in suits. Under section 7 (iv) d to obtain an injunction, the Court fee is payable according to the amount at which the relief is sought to be valued in the plaint. It further provides that the plaintiff shall state the amount at which he values the relief sought. Section 8 of Suit Valuation Act, 1887 puts an obligation on the plaintiff to value the suit for the purpose of court fee and jurisdiction identically except for the Exceptions provided in Section 7 paragraph 5, 6, 9, 10 Clause (d) of the Court Fee Act, 1870. It is therefore, follows that though it is in the discretion of the plaintiff to value his suit as per his bona fide belief and discretion, but once he has valued his suit in terms of Section 8 of the Suit Valuation Act, the court fee shall become payable on the same amount in terms of Section 7 of the Court Fees Act. Once the suit has been valued at a certain value, the

advalorem court fees has to be paid mandatorily on the same valuation. In the present suit the plaintiff has valued his suit for mandatory and perpetual injunction in para no.24 of plaint, which is reproduced hereinbelow:

“That the suit for purpose of court fees, valuation and jurisdiction is valued at Rs.3,05,000/- on which the advalorem court fees of Rs.5,321/- (rounded off Rs.5500/-) is paid/affixed.”

6. In view of para no.24 of plaint and court fees of Rs.5,500/- affixed with the plaint, I find that the plaintiff has valued his suit at Rs.3,05,000/- and also affixed the Court Fees as per the said value.

7. In view of above discussion, this Court is of the opinion that the plaint cannot be stated to be bad for non-disclosure of cause of action or for improper valuation. Therefore, the present application deserves dismissal. Accordingly, the present application is disposed off as dismissed.

Application stands disposed off.

Put up for completion of pleadings, admission-denial of documents and framing of issues on 05.11.2024.

(Pooja Jain)
District Judge-03/NB
East/KKD Courts/Delhi
27.09.2024