

10.05.2023

ORDER

Vide this order, the Court shall dispose off the application of defendant under Order VII Rule 11 r/w Section 151 CPC for rejection of the plaint.

Following arguments submitted on behalf of defendant:

1. Plaintiff has filed the present suit on the basis of unregistered notarized documents, though as per the provisions of Section 17 (1A) of Registration Act, 1908, the documents containing contracts to transfer for consideration of any immovable property for the purpose of Section 53A of Transfer of Property Act, 1882 are needed to be registered if they have been executed on or after the commencement of the registration and other related laws (Amendment) Act 2001 (48 of 2001) and if such documents are not registered on or after such commencement, then they shall have no effect for the purpose of the said Section 53A.

2. The suit of plaintiff is also liable to be dismissed in view of the landmark judgment of Hon'ble Supreme Court in "Suraj Lamp & Industries (p) Ltd. Vs. State of Haryana & Anr." ; 2012 (1) SCC 656.

Following arguments submitted on behalf of plaintiff:

1. The present application has been filed just to delay the proceedings of the present suit.

2. The documents relied upon by defendant are also unregistered.

3. The facts and circumstances leading to pronouncement of the judgment of "Suraj Lamp & Industries (p) Ltd. Vs. State of Haryana & Anr." are distinguishable from that of the present suit.

4. The present application may kindly be dismissed with heavy

cost, in the interest of justice.

FINDINGS OF THE COURT:

Let us first discuss relevant legal provision and settled legal proposition in respect of rejection of plaint under Order VII Rule 11 CPC.

The plaint can be rejected on the following grounds: -

- (a) where the plaint does not disclose cause of action;
- (b) where relief claimed is undervalued;
- (c) where plaint is insufficiently stamped;
- (d) where suit is barred by law;
- (e) where plaint is not in duplicate;
- (f) where there is non-compliance with statutory provisions;
- (g) other grounds.

While considering the application under Order VII Rule 11 CPC, the Court is required to take into consideration the plaint and documents accompanying the plaint and not the defence of the defendant or the documents relied upon by defendant (*ref. Steel Authority of Indina Ltd. vs. Rameshwar Dass Bishan Dayal, 60 (1995) DLT 271, 275, 276 ; D. Ramachandran vs. R.V. Janki Raman 1999 (3) SCC 267*). Further if the plaint filed by plaintiff does not disclose any cause of action, the court will reject it. But in order to reject the plaint on this ground, the court must look at the plaint and at nothing else. The power to reject a plaint on this ground should be exercised only if the court comes to the conclusion that even if all the allegations set out in the plaint are proved, plaintiff would not be entitled to any relief.

Let us now examine whether or not the application filed by defendant deserves to be allowed in the light of aforesaid legal provisions and settled legal proposition.

Plaintiff has filed the suit for possession and mesne profit. So far as arguments of defendant regarding filing of unregistered title documents of the suit property by plaintiff are concerned, this Court is of the view that in terms of Section 49 of the Registration Act, a document is required to be registered, if unregistered is not admissible in the evidence. Such unregistered document can however be used as an evidence of collateral purpose as provided in the proviso to Section 49 of the Registration Act. Therefore, the title documents filed by plaintiff though unregistered can be used for collateral purposes and after payment of the penalty under Section 35 of the Indian Stamp Act [ref.: **(2008) 8 SCC 564**].

Further, from para nos. 26 & 27 of the judgment titled as Suraj Lamp & Industries Ltd. Vs. State of Haryana (supra), it is clear that this judgment will not affect validity of transfer documents of plaintiff in genuine transactions. It has been held by Hon'ble Superior Courts that such unregistered documents are being continued to be treated as existing agreement of sale and nothing prevented the affected parties from getting registered Deeds of Conveyance to complete their title; the said SPA/GPA/Will transactions could also be used to obtain specific performance or to defend possession under Section 53A of Transfer of Property Act or to claim possession of the suit property as at least right to suit property would stand transferred to person in whose favour such documents have been executed. **(Ref: Maya Devi Vs. Lalta Prasad, Civil Appeal No.2448, DOD 19.02.2014; O.P. Aggarwal & Anr. Vs. Akshay**

Lal & Ors. 188(2012) DLT 525).

Furthermore, the allegations and counter-allegations leveled by the parties can be decided only by leading evidence.

In view of the above discussion, the aforesaid application is dismissed.

The application is disposed off accordingly.

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ADJ-01/NE/KKD/DELHI
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