

Smt. Veena Rani Vs. Surender Kumar & ors

19.07.2017

Present : Ld. Counsel for plaintiff.
Ld. Counsel for defendant no. 1.
Ld. Counsel for defendants no. 2 & 3.

Replications are filed qua WS of defendant no. 1 and defendants no. 2 & 3. Copy supplied. At this stage, one application U/o 7 R 11 CPC is filed by counsel for defendant no. 1 for rejection of plaint with contention that the plaintiff has not filed any supporting documents to corroborate the averments made in the plaint. Further that the plaintiff has no locas standi to file the present suit and there is no cause of action. During course of arguments, Id. Counsel for defendant no. 1 has relied upon judgment of Hon'ble Supreme Court in 2012 (3) RCR (Civil) 811 in support of his contentions. On the other hand, application is opposed by Id. Counsel for plaintiff.

I have carefully perused the record in light of submissions made before me.

On perusal of record, it is revealed that all the issues raised by way of present application by defendant no. 1 are subject matter of trial and it cannot be said that the plaint is liable to be rejected at the very outset. Maybe the case of the plaintiff is not supported by sufficient documentary evidence but certain facts have been mentioned in the plaint which cannot be denied at this stage. The nature of the case put forward by the plaintiff is such that her case cannot be thrown out rightly without giving an opportunity for leading evidence to her. It is well settled law that for the purpose of Order 7 R 11 CPC, the contents of plaint and documents attached with the same are only to be considered and the defense of defendant

is not relevant for this purpose. If the present application is analyzed in light of main objections of Order 7 R 11 CPC, the same is found to be devoid of merits. Accordingly same is dismissed.

Pleadings of the parties are complete.

On the basis of pleadings, following issues are framed.

- 1) **Whether the plaintiff is entitled to decree of possession, as prayed for? OPP.**
- 2) **Whether the plaintiff is entitled to decree of permanent injunction as prayed for? OPP.**
- 3) **Whether the plaintiff has no locus standi to file the present suit?**
- 4) **Whether the suit of the plaintiff is not maintainable in view of the facts mentioned in para-3 of the preliminary objections in the WS of defendant no. 1? OPD-1.**
- 5) **Whether the plaintiff has not given a clear and correct description of the suit property? OPD.**
- 6) **Whether the suit has not been properly valued for the purpose of Court Fee and jurisdiction? OPD.**
- 7) **Relief?**

No other issue arises or pressed.

Be put up on **17.01.2018** for PE. List of witnesses be filed within 15 days. Ld. counsel for the plaintiff is directed to supply the advance copy of the affidavit of evidence to the defendants at least 15 days prior the next date of hearing.

(Sanjay Jindal)
ADJ-02 (North), Rohini, Delhi.
19.07.2017(pk)