

CS. No. 116/17

Sh. Parveen Kumar & Ors. Vs. Smt. Lalita & Ors.

21.10.2019

Present : Ld. Counsel for the plaintiff.

Ld. Counsel for defendant nos. 1 & 2.

None for other defendants.

No written submissions have been filed.

Matter is fixed today for orders on application u/O VII R 11 CPC.

The plaintiff has filed the present suit for declaration on different counts and permanent injunction qua certain immovable properties. By way of present application, the defendant has sought rejection of plaint with contention that suit is not maintainable as jurisdiction of Civil Court is barred. Objection regarding bar of resjudicata, absence of cause of action etc. are also taken as mentioned in the application.

The application has been opposed by the plaintiff and a reply has been filed. It is argued that relief regarding cancellation of sale deed can be granted only by the Civil Court, so, it cannot be said that this court has no jurisdiction. It is also argued that the objections taken by the applicant are subject matter of trial and plaint cannot be rejected at the very outset.

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

It is necessary to mention at the very outset that for the purpose of order VII R 11 CPC, only the plaint and supporting document are to be considered. So far as objection regarding bar of jurisdiction is concerned, it cannot be disputed that the relief claimed under clause (a) for declaring the sale deed dated 13.10.2009 not binding upon the plaintiff, can be granted by the Civil Court only. The objections regarding other reliefs can be considered in due course. The other objections raised in the present application are of such a nature which can be decided with the help of evidence and it cannot be said at the very outset that plaintiff is liable to be rejected.

Considering the above facts and circumstances, the application u/O VII R 11 CPC is found to be devoid of merits and the same is accordingly dismissed.

Now to come up for completion of pleadings, admission/denial and framing of issues on 11.03.2020.

(Sanjay Jindal)
ADJ-4(NW): Rohini Courts:Delhi
21.10.2019/pk