

Suit No.11817/16
P. Suresh Rao Vs. P. Rajesh Rao

20.10.2022

Present: Counsel Sh. Amit Kumar for the plaintiff.
None for the defendant.

(1) Vide this order, I shall dispose of the application u/o 7 Rule 11 read with Section 151 CPC filed on behalf of the defendant. Arguments have already been heard.

(2) The defendant has submitted in the present application that the plaintiff in the original plaint as well as in the amended plaint has not disclosed the cause of action in the present case. It is prayed that the present suit be rejected as the mandatory provision has not been complied by the plaintiff.

(3) Reply to the present application has been filed by the plaintiff denying therein that the plaintiff has not disclosed the cause of action in the plaint. It is submitted that the cause of action is a bundle of facts ascertained by the plaintiff in the present plaint and the same has to be considered in totality. It is further submitted that the plaintiff in the plaint has specifically mentioned that the plaintiff requested the defendant to hand over the possession of the first floor of the suit property as the plaintiff has terminated the permissive user right of the defendant and

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therefore, the cause of action arose accordingly. It is further submitted that the plaintiff has mentioned every essential and necessary facts constituting the right of the plaintiff over the suit property and also about the infringement of the said right by the defendant. The plaintiff has prayed for the dismissal of the present application with heavy cost.

(4) Order 7 Rule 1(e) CPC provides that the plaintiff has to mention the fact constituting the cause of action and when it arose. The plaintiff in the para no.13 of his plaint has averred that due to growing family needs and grown up children, there is a need for separate accommodation for his son and his family and the plaintiff has asked the defendant several times to shift his house to some other accommodation and to vacate first floor as it was needed for his son and his family. It is further averred that the plaintiff has asked the defendant time and again to vacate the property and to remove his articles from the same but the defendant being adamant in nature has refused to do the same. Therefore, the plaintiff has sufficiently disclosed the fact in the plaint with regard to cause of action in his favour and against the defendant. Even though, there is no mention of specific date but it is the case of the plaintiff that he has requested the defendant many times to vacate the suit property by him, therefore, the cause of action has arisen in favour of the plaintiff and against the defendant on each and every date so long the defendant does not vacate the suit property.

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(5) Therefore, in view of my above discussions, the present application filed by the defendant has no merit and the same is dismissed accordingly.

Put up for PE on 18/01/2023.

(VINOD KUMAR GAUTAM)
ADJ-07 (W)/THC COURTS
20.10.2022