

Orders on I.A. filed u/O.VII R.11 r/w. S.151 of C.P.C.

The defendant filed this application on 13-3-2020 praying to reject the plaint, as it does not disclose the cause of action.

2. In support of the I.A., the 1st defendant has sworn to an Affidavit stating that there is no existing or legally recoverable debts from the defendants to the plaintiffs and they have a lodged a complaint to the Commissioner of Police and JJR Nagar Police and the suit is an abuse of process of the Court and suit be dismissed for want of cause of action by deciding preliminary issue without going into other details. Plaint averments disclose the doctrine of 'no rights to sue'. Hence the suit is liable to be rejected.

3. The plaintiffs filed their objection statement to the application submitting that they have clearly mentioned about signing of memorandum of understanding and issuance of legal notice, thereby put forth the cause of action in filing this suit and they plaintiffs have a cause of action to maintain the suit. Hence, prayed to dismiss the application.

4. The defendant, after filing the application, has not chosen to submit her arguments on the application. However the learned counsel for the plaintiff submitted his arguments on the I.A.

5. The only Points that arise for consideration are as follows:

1. Whether the defendant has made out a ground to reject the Plaint u/O.VII R.11 r/w. S.151 of C.P.C.?

2. What Order?

6. The answers to the above Points are:

Point No.1 – In the Negative,

Point No.2 - As per Final Order,

for the following:

REASONS

7. **Point No.1:** The plaintiffs have filed this suit against the defendants for the recovery of a sum of Rs.10,50,000/- from the hands of these defendants along with interest at the rate of 24% p.a. from the date of suit till realization. It is their case that the defendants are their friends from many years and out of the acquaintance, they started investing funds in the chit business of defendant No.1 from the year 2008 and they became the chit members with the defendant No.1 for a sum of Rs.50,000/- and subsequently after completion of the chit, she once again taken the chit of Rs.1-lakh in the month of May 2015 and likewise, they became the members to one more chit amounting to Rs.50,000/- and accordingly they invested huge amount with the defendant No.1 totally amounting to Rs.7,50,000/-. However the defendant No.1, even after completion of the chit, has failed to return the chit amount in their favour in spite of their repeated request and demand

and as such, the defendant is liable to pay a sum of Rs.10,50,000/- along with interest thereon.

The defendants have filed their Written Statement and they denied all the plaint averments and denied the very fact that they are liable to pay the suit claim amount to these plaintiffs. At this stage, when the case is set down for plaintiffs' side evidence, the 1st defendant filed I.A. u/O.VII R.11 of C.P.C. praying to reject the plaint as plaint does not disclose the cause of action. The defendant has stated that the plaintiffs, by forcefully and fraudulently obtained her signatures in many documents and later thereon created the documents in order to extract money from her, filed this false suit by making false claim, even though she is not liable to pay any kind of amount in favour of this defendant.

At this stage, without holding a full fledged trial, it is not possible to come to a conclusion that the plaintiffs, by playing fraud on this defendant, have forcefully and fraudulently obtained her signatures and LTMs. on the documents and by threatening her, created the documents and filed this suit. The defendant, except stating that there is no cause of action for the plaintiffs to file this suit, has not specifically averred how the suit is not maintainable. On the contrary, the plaint averments clearly disclose that the plaintiffs, based on the documents executed by the defendant, filed this suit for claiming invested chit amount of

Rs.10,50,000/- along with interest thereon. The plaintiffs got produced the memorandum of understanding entered in between the plaintiffs and defendants in respect of chit transaction. In such being the case, the defence taken by the defendant that there is no cause of action for the plaintiffs to file this suit and as such, the suit is liable to be rejected, is not convinced this Court. The has not made out any good valid grounds to allow this application. There is no merits in the application. Hence, I have answered Point No.1 in the Negative.

8. **Point No.2:** For the aforesaid reasons, this Court proceeds to pass the following:

ORDER

The I.A. filed by the defendant dated 13-3-2020 u/O.VII R.11 r/w. S.151 of C.P.C., is hereby dismissed.

Posted for plaintiffs' side evidence by
29-10-2021.

(Ishrath Jahan Ara)
III A.C.C. & S.J., Bengaluru.