



**IN THE COURT OF ADDL. CIVIL JUDGE AND JMFC.,**

**SAKALESH PURA**

**Present:**

**SRI. LAKSHMI NARASIMHA R.V,** B.A.L., L.L.B.,

Addl. Civil Judge & JMFC., Sakaleshpura.

**Dated 18<sup>th</sup> Day of July, 2024**

**O.S.No.354/2023**

**Plaintiff : Eresh.J.P**

**V/s**

**Defendant : Honnappa.J.E**

**I.A.No.IV**

**Applicant : Honnappa.J.E**

**V/s**

**Opponent : Eresh.J.P**

**ORDERS ON I.A NO.IV FILED BY THE DEFENDANT**  
**UNDER ORDER VII RULE 11 OF CPC**

The defendant has filed this application when the matter is posted for hearing on I.A.No.III under Section 151 of C.P.C., for



police protection. The defendant has filed the present application under Order VII Rule 11 of CPC, to reject plaint as the plaintiff has suppressed the material facts.

2. In the affidavit, annexed along with application, the defendant has stated that, the plaintiff has filed the present suit for the relief of permanent injunction. The plaintiff is trying to encroach the property of defendant and the government property. He has suppressed the material facts and filed the present suit. The RTC in respect of 53/2 appears in the name of J.M.F.C., Court, Hassan. In spite of the same, he has suppressed the material facts and filed the present suit. The plaintiff is not in possession of the suit schedule property. But, he has suppressed the material facts and filed the suit by stating that, he is constructing the house by demolishing the old house with the suit schedule property. The plaintiff has encroached the property of defendant and the Government property and trying to construct house by creating the documents. Hence, the plaintiff



has suppressed the material facts and filed the present suit. As such, prayed to reject the plaint.

3. The plaintiff has filed objections to the said application by denying the contents of the affidavit. The plaintiff is in possession of the suit schedule property since 80 years. When he proceeded to renovate the old house, the defendant has started to cause obstructions. Hence, the plaintiff has filed the present suit. The defendant has not stated any valid reasons to allow the application. Accordingly, prayed to dismiss the application.

4. In light of the above contentions, the infra points that would arise for the determination.

1. “Whether suit is liable to be dismissed as the plaintiff suppressed the material facts as contended by the defendant?”

2. What order?

5. My findings on the above points are as under:



**Point No.1:** In the *Negative*

**Point No.2:** As per final order

for the following:

**::REASONS::**

6. **Point No.1:** The plaintiff has filed this suit for the relief of permanent injunction in respect of the suit schedule property against the defendant.

7. Before going to the contents of the case, I would like to draw attention on the provisions of Order VII Rule 11 of CPC, it reads as follows:

Order VII Rule 11: Rejection of Plaint: The pliant shall be rejected in the following cases:

(a) where it does not disclose a cause of action;

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is properly valued,



but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law:

(e) Where it is not filed in duplicate,

(f) Where the plaintiff fails to comply with the provision of Rule 9;

8. On perusal of the plaint and the cause of action, it makes clear that these provisions are mandatory to be looked into if, the suit is barred by law and does not disclose any cause of action. In **AIR 1996 SC 2140, State of Orissa vs Klockner and company and others**, the Hon'ble Apex court held that, ***“it is the case of the applicant that the plaintiff has no cause of action to file the suit. It is not specifically pleaded by the applicant that plaint does not disclose the cause of action.***



*The learned trial judge has also not recorded any specified finding to this effect. From the discussions in the order it appears that the learned trial judge has not maintained the distinction between the plea that there was no cause of action for the suit and does not disclose the cause of action. No specific reason for the ground is stated in the order in support of finding that the plaint is to be rejected under Order 7 rule 11(a). the cause of action to file the suit for the reliefs sought question is to be determined on the basis of materials(other than plaint) which may be produced by the parties at appropriate stage in the suit.”*

9. The Hon'ble Supreme Court in **Kamala and Others vs. K.T. Eshwara Sa and Others** has held that *“only plaint averments shall be looked into for disposing of the plaint rejection application”*. The Hon'ble High Court of Karnataka in ILR 2013 KAR 1171 (**Gokuldas Images Pvt. Ltd. vs. M/S Axis Bank Limited, Ahamedabad**), held that *“to reject the*



***plaint under Order VII Rule 11(a) (d) CPC, what is required to be considered only the statement in the plaint and not any other material which may be available to the defendant as defence”.***

10. The defendant has maintained this application on the ground that plaintiff has suppressed the material facts. The term cause of action refers to bundle of facts, which makes the plaintiff to file the suit. The plaintiff in the plaint has explained as to why he was constrained to file the suit. On perusal of Order 7 Rule 11 of C.P.C., it is clear that, suppression of material facts is not a ground or ground listed under the provision to reject the plaint. The said aspect has to be determined after full fledged trial. Hence, the contention of defendant that, the plaintiff has suppressed the material facts is not a ground for rejection of plaint. In order to determine the issue, the trial is required to be conducted. Hence, it is premature to decide the suit so as to whether the plaintiff has suppressed the material facts or not.



Considering the above reasons, this Court answers point No.1 in the the *Negative*.

11. **Point No.2:** in view of the above findings and point No.1, I proceed to pass the following;

**ORDER**

The application No.4 filed by the  
defendant under Order VII Rule 11 of  
C.P.C., is hereby dismissed.

No costs.

[Dictated to the Stenographer directly on computer and then corrected by me and thereafter pronounced in the open court on this the 18<sup>th</sup> day of July, 2024]

[Lakshmi Narasimha R.V.,  
Addl. Civil Judge And JMFC.,  
Sakaleshpura.