

**IN THE COURT OF THE ADDL. CIVIL JUDGE &
JMFC, BANGARPET**

Present:- A.C. DAYANADMURTHY., B.A., LL.M.,
Addl. Civil Judge & JMFC, Bangarpet.

Dated this the 21st day of February, 2019.

OS 174/2018

Plaintiff:- Smt. Rathnamma, 52 years,
W/o Muniyappa,
R/at Marati Hosahalli Village,
Budikote Hobli, Bangarpet Taluk.

V/s

Defendants:- Sri. Ramoji Rao, 40 years,
S/o Late Girimoji Rao,
R/at Marati Hosahalli Village,
Budikote Hobli, Bangarpet Taluk.

PARTIES TO IA No. 5

Applicant :- Ramoji Rao
(Defendant)

V/s

Opponent :- Rathnamma
(Plaintiff)

ORDERS ON I.A. NO. 5

The applicant/defendant has filed I.A. No. 5 U/o 7 rule 11(a) R/w Sec. 151 of CPC for rejection of plaint as there is not cause of action discloses in the plaint.

2) The defendant contended that in the plaint in para No. 12 the plaintiff did not disclose clear cause of action and also he stated that the cause of arise on 20-06-2018 and subsequently everyday where the suit schedule property is situated. This fact is not clearly shown there is a cause of action. Hence the plaintiff did not clearly narrate the cause of action to file a suit against the defendant. Hence the suit is to be dismissed.

3) Per contra the plaintiff counsel filed an objection stating that the application filed by the defendant is not maintainable. The plaintiff averred the plaint para No. 10 and 11 regarding the interference of the defendant in the suit schedule property and also the plaintiff lodge a complaint against the defendant before the Superintendent of Police, KGF to take proper

action against the defendant. The said complaint is produced before the court. Though the defendant sworn false affidavit and filed this application. Hence she prays for rejection of application.

4) Heard arguments by both side.

5) The points that would arise for my consideration are as under :

1. Whether the application filed by the defendant U/o 7 rule 11(a) R/w Sec. 151 of CPC for rejection of plaint is deserves to be allowed?

2. What order?

6) My findings to the above points are as under:

Point No. 1 : In the Negative

Point No. 2 : As per final order

for the following:

REASONS

7) **Point No.1** :- it is the specific arguments by defendant counsel is, that perusing the affidavit of the defendant, in his affidavit he clearly stated that in para

No. 12 of plaint the plaintiff did not disclosed the cause of action. Simply he stated that on 20-06-2018 and subsequently everyday the cause of action arises. But on 20-06-2018 how the cause of action arose not disclosed in the para No. 12 of the plaint. But it is the well settled that mere mentioning of date or non mentioning of cause of action in the plaint is not a criteria to reject the suit U/o 7 rule 11(a) R/w Sec. 151 of CPC. The cause of action is a bundle of facts. Though the plaintiff did not narrate the cause of action in the plaint court read the entire pleading i.e., entire plaint.

8) It is pertinent to note that from the reading of entire plaint court feels from the reading of the plaint there is a cause of action in the suit. Itself it is sufficient to proceed with the case. Non mentioning in para 12 is not sufficient to allow the application.

9) As per the settled law of principle it is very clear that while reading the para No. 9 to 11 of the plaint is very clear that the defendants have interfered the

possession of the plaintiff and also the defendant is an influenced man and such other allegation made by the plaintiff against the defendant. Therefore while perusing the plaint averments though the plaintiff narrate these facts in par No. 9 to 11 it is very clear that there is a cause of action to file a suit against the defendant. Hence the application filed by the defendant is to be answered in the negative. **Hence I answered point No. 1 in the Negative.**

10) **Point No.2** : From the findings given above, I proceed to pass the following:

ORDER

Application U/o 7 rule 11(a) R/w Sec. 151 of CPC filed by the defendant for rejection of plaint is hereby rejected.

No order as to costs.

(Dictated to the stenographer typed by her, corrected and then pronounced by me in open court on this the 21st day of February, 2019.)

(A.C.DAYANANAD MURTHY)

Addl. Civil Judge and JMFC,
Bangarpet.