

**Orders on IA filed under Order VII Rule 11(d) of
CPC., R/w Section 4(2) of the Karnataka SC
ST(PTCL) ACT-1978.**

The applicant/defendant No.21 filed the application to reject the plaint on the ground that, the suit is not maintainable since there is no prior sale permission obtained from the Government as contemplated under the K.SCST(PTCL) Act-1978 for purchasing the SCST lands and also under the alleged sale deed dated: 28-11-2011, the plaintiff cannot enforce his rights in respect of the alleged purchased land.

As per the affidavit of the defendant No.21 annexed to the application, originally the land bearing Sy.No.26/10 measuring 1 acre 37 guntas was granted to Obalaiah on 21-11-1962 by the then Tahasildar, Ramanagara Taluk as Sri.Obalaiah belonged to the Scheduled Caste. On 28-11-2011 the opponent without the knowledge of the applicant colluded with the Sub-Registrar, Ramanagara and without the prior permission of the Government for alienating the schedule property obtained sale deed illegally from the defendants No.1 to 20.

That the opponent has falsely implicated in the sale deed dated:28-11-2011 that, sale permission has been given by the Deputy Commissioner, Ramanagara vide order dated:14-10-2011. That the son of the defendant has requested for information with

regard to the permission order under Right to Information Act. But, an endorsement was given stating that, there is no file available in respect of the information sought by the son of applicant.

That the opponent is claiming ownership under the alleged sale deed dated:28-11-2011, which itself is disputed in the suit. That the opponent cannot enforce his right over the said granted land and the Civil Court has no jurisdiction to try the suit in respect of the said granted land without prior permission. If the parties have seriously raised objection regarding disputed land under the PTCL Act the Civil Court is liable to reject the plaint on the ground of preliminary issue. Therefore, the application.

The plaintiff/opponent filed statement of objections and submitted that, the defendants No.1 to 21 have obtained permission from the Deputy Commissioner, Ramanagara District and produced the copy of orders before Sub-Registrar, Ramanagara during the execution of sale deed on 28-11-2011. Therefore, the sale deed is legally executed according to the law in force. The defendants No.1 to 21 have not questioned the execution of sale deed till date. Now the defendants No.1 to 21 have executed the registered agreement of sale in favour of the defendant No.22. The said defendant No.22 even after knowing that, the suit schedule property has been sold to the plaintiff had agreed and got executed the agreement in his favour with an intention to wrongful gain.

That the suit is instituted for the relief of declaration and injunction. But, the applicant is seeking rejection of plaint by mentioning facts which have to be dealt with by the Revenue Courts. As per Order VII Rule 11(d) of CPC., the plaint shall be rejected "Where the suit appears from the statement in the plaint to be barred by any law." But, in the present case there is no statement in the plaint, which shows that the suit is barred by any law in force. Therefore, the opponent prayed for dismissal of the application with the costs.

Heard. The learned counsel for the applicant furnished decision of the Hon'ble High Court of Karnataka reported in *ILR 2007 KAR 1323 rendered in Sri.Venkatanarayanappa V/s Sri.Siddappa*. As per this decision an agreement to sell the granted land under PTCL Act is opposed to Section 4(2) of the Act, and therefore, is not a contract and it is not enforceable in the Court of law.

The present suit is for declaration and permanent injunction. The opponent has sought for declaration of his title over the suit schedule property on the basis of registered sale deed dated: 28-11-2011. According to the applicant, the suit schedule property was granted to Obalaiah who belonged to Scheduled Caste, as such the property could not have been sold with out the prior permission of the Deputy Commissioner.

According to the opponent, while executing the sale deed the permission obtained from the Deputy Commissioner, Ramanagara was produced before the Sub-Registrar, Ramanagara and photo-stat copy of the said order is produced before this Court by the opponent. But, the applicant has disputed the said document as it does not bear seal of the concerned officer. The applicant has also produced photo-stat copies of saguvali chit, genealogy tree, death certificate of Obalaiah, sale deed dated:28-11-2011, RTC and the information obtained under RTI Act from Additional Deputy Commissioner, Ramanagara.

In this case, though the applicant has sought for rejection of plaint on the ground that, the suit is barred under PTCL Act, the Court at this juncture has to consider only the plaint averments as to whether the suit is barred by any law for the time being in force. But, there is such averment in the plaint which shows that, the suit is barred by any law for the time being in force. Such being the case, the plaint need not be rejected. Hence, I proceed to pass the following:

ORDER

The IA filed by the applicant/defendant No.21 under Order VII Rule 11(d) of CPC., R/w Section 4(2) of K.SCST(PTCL) Act-1978 is rejected.

OS.72.2018

**Addl. Senior Civil Judge & JMFC., ,
Ramanagara.**