

**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE & J.M.F.C.,
SAGAR.**

Present:- Sri. Syed Arfath Ibrahim M. B.A.L, L.L.B.,
Principal Civil Judge & JMFC,
Sagar.

Dated this the 20th day of September, 2018.

O. S. NO. 250/2016

PLAINTIFF : Jalajakshamma w/o Nagaraj, aged
about 54 years, R/o :
Anandapuram village, Sagar Taluk.

V/s-

DEFENDANTS : 1. The Chief Secretary,
Government of Karnataka, Vidhana
Soudha, Bengaluru.

2. The Tahasildar, Sagar Taluk
Office, Sagar.

3. The Secretary, Grama
Panchayath, Yadehalli, Sagar
Taluk.

4. The President, Grama
Panchayath Nyaya Simithi,
Yadehalli, Sagar Taluk.

ORDERS ON I.A.NO.IV

This is an application filed by Defendant No.3 U/Order VII Rule 11 of CPC, 1905 seeking to reject the plaint filed by the plaintiff.

2. In the memorandum of facts the learned counsel for defendant no.3 has contended that as the plaintiff has herself stated in her

plaint that she was issued a notice dated 03-11-2016 by the defendant, this court has no jurisdiction to try this suit in view of a new court being established by the Government to deal with lands belonging to the Government. Hence, the defendant no.3 has prayed to reject the plaint.

3. The plaintiff has filed her objections contending that the application is not maintainable. The plaintiff is in possession of the suit property prior to 23-12-1998 and she has also filed an application to the land grant committee to grant the suit land in her favour in the year 1998 itself. The defendant no.3 and 4 even before the application is disposed are trying to illegally evict the plaintiff from the suit property. As such in order to safeguard her possession the plaintiff has filed this suit before this court. This plaintiff is not seeking any relief of declaring this plaintiff as owner of the suit property. Hence, she has sought for dismissal of the application.

4. Heard learned counsel appearing for Defendants No. 3 and Sri. I.N.S learned counsel appearing for plaintiff and perused the file.

5. The points that arise for my consideration are as hereunder;

1. Whether the plaint is liable to be rejected?

2. What order?

6. My answer to the above points is as hereunder;

Point No.1: In the Affirmative

Point No.2: As per final order, for the following,

REASONS

7. **POINT NO.1 :-** The plaintiff has filed this suit seeking permanent injunction against the defendants restraining them or anyone acting on their behalf from trespassing into the suit property. It is the contention of the plaintiff that she is in possession of the suit property prior to 23-12-1998 and she has also filed an application to the land grant committee to the grant the suit land in her favour in the year 1998 itself. The defendant no.3 and 4 even before the application is disposed are trying to illegally evict the plaintiff from the suit property. It was also contended that the notice which the plaintiff talks about is not a notice issued U/Sec.192 of Karnataka Land Revenue Act as such this court gets jurisdiction to try this suit. It was also argued by the learned counsel for the plaintiff that the defendant no.3 and 4 had issued an illegal notice and threatened to evict the plaintiff from the suit property based upon allegation of villagers who are having grudge against this plaintiff. Hence, the plaintiff has stated that the plaint of the plaintiff cannot be rejected as it clearly disclosed cause of action. On the other hand the defendants have argued that the plaint only creates illusion of having cause of action but, in reality there is no cause of action for the plaintiff to approach this court. It was also argued that as the suit property is a Government land this court does not get any jurisdiction to try this suit as a special court is already established by the Government to deal with the matters pertaining to Government lands.

8. I have heard both counsels and perused the plaint with due care. Indeed the notice which the plaintiff mentions in her plaint is

not a notice issued U/Sec.192 of Karnataka Land Revenue Act. However, as the question has arose as to whether the plaint discloses a cause of action or not?, this court feels it appropriate to see whether there was any cause of action for the plaintiff to file this suit.

9. In this regard the concept of cause of action has to be looked into. Cause of action is nothing but bundle of facts which lead up to the filing of the suit. Cause of action which gives rise for a valid cause for filing of the suit is valid. On the other hand, pleadings which give rise to illusion of cause of action having occurred does not give rise to “**a cause**” for the plaintiff to file a suit. In order to come to a conclusion regarding cause of action, plaint has to be read as a whole. Keeping in mind the above concept of cause, it would be appropriate to go through the case in hand.

10. In this case the plaintiffs have filed this suit seeking permanent injunction against the defendants from illegally trespassing into the suit property. The real intention of the plaintiff was from restraining the defendants from dispossessing her from the suit property without following due process of law. Due process of law in other words means giving the other party a chance to be heard. In the words of a layman, due process of law means “***following of all the contemplated procedures before proceeding to take action***”. Keeping all the above in mind it would be appropriate to go through the plaint filed by the plaintiff in this case. Upon going through the plaint it can be seen that the real cause of action as mentioned by the plaintiff in the plaint and also which was argued by the counsel for the plaintiff was the defendants issuing intimation dated 03-11-2016

to the plaintiff. As the plaintiff has mentioned the said intimation in her plaint and also produced a copy of the same, this court can rely on the same to see whether the plaintiff was justified in approaching this court based on an intimation issued by the defendants.

11. In the intimation letter the Gram Panchayath committee has asked the plaintiff to be present on 07-11-2016 when they were about to inspect the spot. Mere calling upon a person to be present on the spot of inspection does not in any way give rise to a cause of action for the plaintiff to file this suit as the defendants had only followed due process by giving intimation of their intended inspection and nothing else. It is the case of the plaintiff herself that the defendants conducted an inspection on 07-11-2016 and asked the plaintiff to vacate the land. Even if this contention is taken to be true, even then the plaintiff has to approach competent authority challenging the basis of such findings. In this case this court is not the competent authority to decide whether the Gram Panchayath committee was justified to ask the plaintiff to vacate the suit property or not. As the suit property is a Government land and as the plaintiff is an illegal occupant of Government land it is upto the competent authority to decide this matter. This court does not get any jurisdiction to decide such matters. This court cannot restrain Government officials from entering into the suit property as the suit property belongs to the Government and the plaintiff is not the owner of the same till today. The defendants have followed due process by issuing intimation to the plaintiff before going for inspection to the spot. As such this court holds that the plaintiff did not have any cause of action for her to approach this court. In view

of this court the plaint only creates illusion of having cause of action but in reality the plaintiff did not have any cause of action to approach this court. Hence, this court holds that the plaint is liable to be rejected U/order VII rule 11(a) of C.P.C.

Accordingly, Point No.1 is answered in the Affirmative.

12. **POINT NO.2:-** In view of my above discussion, I proceed to pass the following;

ORDER

**I.A. No.IV filed by the Defendant
No.3 is allowed.**

**Plaint of the plaintiff is hereby
rejected Under Order VII Rule 11(a)
C.P.C.**

Draw decree accordingly.

(Dictated to the stenographer directly on computer, generated through computer by her, corrected and then pronounced by me in the Open Court on this the 20th day of September, 2018.)

**(Syed Arfath Ibrahim M.)
Principal Civil Judge & J.M.F.C.,
Sagar.**

Order pronounced in the Open Court
(Vide separate order)

ORDER

I.A. No.IV filed by the Defendant
No.3 is allowed.

Plaint of the plaintiff is hereby
rejected Under Order VII Rule 11(a)
C.P.C.

Draw decree accordingly.

Principal Civil Judge & J.M.F.C.,
Sagar.