

**IN THE COURT OF THE SENIOR CIVIL JUDGE,
AT GUBBI.**

Dated this the 29th Day of March 2021.

**Present: Smt. Fairoza H.Ukkali,
B.A.LLM.,
Senior Civil Judge.**

O.S.169/2019

Plaintiff: Smt. Sharada

V/s

Defendant: Sri. Basavaraju .P.

I.A No.II/2020

Applicant: Basavaraju .P.

V/s

Opponent: Sharada

ORDER ON I.A. No. II

The defendant has filed this application seeking to reject the plaint as not maintainable and the same is without pecuniary jurisdiction.

2. In the affidavit, the applicant has stated that the plaintiff has filed the suit seeking the relief of declaration and perpetual injunction and the suit schedule property was a granted property of the grandfather of defendant, as he was belonging to suppressed class and weaker section of the society and therefore sale deed standing in the name of mother of plaintiff was challenged in PTCL No.12/2010-11 in which an order has been passed restoring the possession of the suit schedule property in favour of the defendant and the said order has been challenged by the plaintiff by filing the appeal in PTCL No.16A/2014-15 before Deputy Commissioner, Tumakuru and the same is pending. That as the dispute between the parties comes under the provisions of Karnataka Schedule Caste and Schedule Tribes (Prohibition of Transfer of certain lands) Act 1978, this court has no pecuniary

jurisdiction to try this suit. Hence the applicant has prayed to allow the I.A. and to reject the plaint.

3. The plaintiff has filed objections contending that suit is filed seeking the relief of declaration and injunction on the basis of the sale deed and no documents are produced by the defendant to establish that the government had granted the land in Form No.1 and the defendant has obtained an order without lawful grant certificate. It is contended that in PTCL No.17/2010-11, it is observed that there are no records of grant in respect of land Sy.No.3 and the point with regard to whether the sale of land is violation of Sec.4 of the Act is answered in the negative and the said order is produced before the court and there is no specific order in favour of the defendant in respect of the suit schedule property and therefore the suit is maintainable before the civil court. Hence the plaintiff has prayed to dismiss the application.

4. I have heard on both side perused record.

5. The following points arise for my consideration:

- 1) Whether the defendant has made out grounds for rejecting the plaint?
- 2) What order?

6. My answers to the above points are as follows:

Point No.1 : In the Negative.

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

REASONS

7. **POINT No.1:** The defendant has filed the I.A under Order VII Rule 11 of CPC seeking to reject the plaint, as it is not maintainable and it is without pecuniary jurisdiction. In the application, there is no mention as to under which sub rule of Rule 11, the plaint is sought to be rejected and there is no mention about the valuation of the suit schedule property, so as to contend that the suit is not within the pecuniary jurisdiction of this court. During the course of arguments the counsel for defendant submitted that the rejection of the plaint is claimed under Order VII Rule 11(d) of CPC.

8. ***Order VII Rule 11 (d) of CPC, reads – “The plaint shall be rejected, where the suit appears from the statement in the plaint to be barred by any law”.*** Thus it is necessary to consider whether there is any statement in the plaint which makes the suit barred by any law. On going through entire averments of the plaint, there is no single statement in the plaint which appears that suit is barred by any law.

9. In the affidavit, the applicant has stated that the suit schedule property was granted to his grand-father as he was from suppressed class and dispute comes under the provisions of Karnataka Schedule Caste and Schedule Tribes (Prohibition of Transfer of certain lands) Act 1978 and therefore this court has no jurisdiction to try this suit. As regards this defence of the defendant, it is mixed question of law and facts and same can be considered only after the full fledged trial. If during the course of evidence it is established by the defendant that suit property attracts the provisions of Karnataka Schedule Caste and Schedule Tribes (Prohibition of

Transfer of certain lands) Act 1978, same will be considered at the time of final disposal of the suit. Thus at this stage such ground cannot be a ground for rejecting the plaint.

10. The applicant has stated that this court has no pecuniary jurisdiction to try the suit. On perusal of the valuation slip, it is forthcoming that plaintiff has valued the suit schedule property for the purpose of jurisdiction at Rs.9,54,000/-. In the entire affidavit, the applicant has not stated, as to what is valuation of the suit property on the date of suit. Without there being any plea with regard to valuation of suit, the suit cannot be rejected on the ground of pecuniary jurisdiction. Further if at all the suit lacks pecuniary jurisdiction of this court, the plaint cannot be rejected under Order VII Rule 11 of CPC and it has to be returned under Order VII Rule 10 of CPC, for presenting the same before the competent jurisdictional court.

11. In view of the above discussion, no grounds are made out by the defendant for rejecting the plaint under Order VII Rule 11 of CPC. Hence Point No.1 is answered in the Negative.

12. **POINT No.2:** For the aforesaid reasons and findings on Point No.1, I proceed to pass the following:-

ORDER

I.A. No. II filed under Order VII Rule 11 of CPC is dismissed.

No order as to cost.

(On my dictation transcribed and typed by the Stenographer, print out taken by her, corrected and then pronounced by me in the Open Court on this the 29th Day of March 2021.)

(FAIROZA H.UKKALI)
Senior Civil Judge,
Gubbi.