

IN THE COURT OF CIVIL JUDGE, S.D., PUNE

Special Civil Suit No. 352/2016

MHPU02-001367-2016

Mr. Nemichand B. Varma -- Plaintiff.

V/s.

Mayrose George Nadar -- Defendant.

ORDER BELOW EXH- 22

1 This is an application filed on behalf of the defendant under Order VII Rule 11 of the Code of Civil Procedure for rejection of plaint. This application has been resisted on behalf of the plaintiff by giving his reply at Exh. 32. Read the present application and say thereon. Heard both the learned counsels on behalf of both the sides. Perused the record.

2 The defendant has contended that, the plaintiff by playing force upon her and obtaining forcefully agreement to sale deed in respect of the suit property on 13/1/2016. The plaintiff has filed the present suit without disclosing cause of action and after period of limitation. The plaintiff has mentioned low price in respect of the suit property is of Rs. 36,51,000/-. Whereas the market value of the property is more than Rs. 1.5 Crore. On these grounds the defendant has requested that the present suit of the plaintiff may kindly be dismissed.

3 The plaintiff resisted this application by raising objection in his reply at Exh. 32 that the defendant agreed to sell the suit property for total consideration of Rs. 36,51,000/- and made written agreement dated 13/1/2016. The defendant has accepted Rs. One lac by cash and Rs. 4,50,000/- by cheque. The defendant despite of many requests made by him avoided to execute registered sale deed in respect of the suit property. The plaintiff was ready and willing to pay remaining balance consideration amount to the defendant. The present suit filed by the plaintiff on 9/3/2016 i.e. within period of limitation. The present application is filed by the defendant with intention to deprive the right of the plaintiff as per agreement dated 13/1/2016. On these grounds the plaintiff has requested that the present application of the defendant may kindly be dismissed.

4 On scrutiny, of the pleadings of both the parties, it appears to me that, the defendant has admitted that she is the legal owner and possessor of the suit property. The defendant has raised objection stating that agreement to sale deed dated 13/1/2016 got prepared by the plaintiff forcefully from her, till this date the agreement to sale deed is not get canceled by the defendant. The copy of the agreement to sale deed is produced on behalf of the plaintiff under list of document at Exh. no. 3. The said agreement to sale deed prepared on 16/1/2016. The present suit can be filed on behalf of the plaintiff on 9/3/2016. The plaintiff has mentioned the cause of action in his plaint as well as the valuation in respect of the suit property and also shown ready and willingness for act upon as per agreement to sale deed dated 13/1/2016.

5 The contention raised by the defendant in the present application can be decided after full fledged evidence adduced on behalf of both the sides. Prima facie it appears from the plaint that he has shown cause of action, limitation and valuation of the suit property and payment of the court fees in the plaint. Therefore, prima facie suit of the plaintiff is maintainable. Therefore, the present application of the defendant under Order VII Rule 11 of the Code of Civil Procedure for dismissal of the suit is liable to be dismissed. Hence, I proceed to pass the following order :-

ORDER

Application of the defendant at Exh. 22 under Order VII Rule 11 of the Code of Civil Procedure is hereby dismissed.

Sd/xxxxx
(R. V. KOKARE)
CIVIL JUDGE S.D., PUNE.

Date : 23/3/2018

I affirm that the contents of this P. D.F file judgment/Order are same, word to word, as per the original judgment/Order.

Name of the Stenographer	P. P. Vyavahare Steno (Grade-II)
Name of the Court	Mr. R.V. Kokare, C.J.S.D.,Pune.
Date of Judgment/order	23/3/2018
Judgment/order signed by the P.O on	23/3/2018
Judgment/order uploaded on	26/3/2018