

IN THE COURT OF THE JUNIOR CIVIL JUDGE: DUBBAK**Present: Ms. VEMUGANTI THARANI**

Junior Civil Judge, Dubbak.

Friday, this the 14th day of June, 2024**I.A. 261/2019 In O.S. 34 /2019****Between:**

Kongari Srinu @ Srinivas Reddy, S/o. Narayana @ Narayana Reddy, Age: 48 years,
Occ: Agriculture, R/o. Cheekode village of Dubbak Mandal, Siddipet District.

...Petitioner/Defendant

AND

Ganthula Chandrakala, W/o. Rajender, Age: 35 years, Occ: Agriculture, R/o.
Kammarpally village of Dubbak Mandal, Siddipet District.

...Respondent/Plaintiff

This Petition is coming before me on 11-06-2024 for hearing in the presence of Sri. S. Laxminarayana Advocate for the Petitioner/Defendant and Sri. J. Prathap Reddy Advocate for Respondent and having stood over for consideration, till this date this court delivered the following:-

ORDER

1. This petition was filed by the defendant/petitioner under Order VII Rule 11 of C.P.C, praying this Court to reject the plaint filed by the plaintiff/respondent.
2. *The averments of the petition in brief are as follows:*

The Plaintiff did not state that petitioner is also having agricultural lands in same survey numbers i.e. Sy. No. 919/UU to an extent Ac. 0-14 Gts, and in Sy.No. 922/U to an extent Ac. 0-13 Gts, situated at Cheekode G.P. Limits, Dubbak Mandal, Siddipet District. The Plaintiff filed this suit for encroaching the land of the petitioner, by creating the story. Hence suit is not maintainable and liable to be rejected.

As per the documents which was filed by the Plaintiff itself shows different survey numbers i.e. the Registered sale deed document No. 529/2009, Dated: 22-04-2009 showing the Sy. No. 919, 922, but in the Pahanies and e-title/Pass Book Sy.No.919/Ru/1, Sy.No.922/UU. Hence this suit is not maintainable and liable to be rejected. As per the documents which filed by the Plaintiff i.e, e-pass/title book the suit schedule properties are mentioned as ancestral properties, but the Plaintiff stating

that she acquired through registered sale deed document No. 529/2009, Dated: 22-04-2009. The same is contradictory to the facts of the suit. Hence this suit is not maintainable and liable to be rejected. The suit schedule properties are not situated within one block, but the Plaintiff mentioned the single boundaries. Hence the suit schedule properties boundaries are wrong. Hence this suit is not maintainable and liable to be rejected. The Plaintiff filed this suit for harassing the petitioner. Therefore it is prayed that the plaint is to be rejected.

3. The respondent filed the counter denying the averments of petition. *The brief averments of the counter filed by respondent are as follows:*

The respondent/plaintiff is the absolute owner and possessor of the suit schedule property bearing Sy. Nos 919 extent of 0-27 guntas, Sy No 922 extent of 0-26 guntas total admeasuring 1-13 guntas, situated at Cheekode village of Dubbak mandal, Siddipet district. The respondent/plaintiff purchased the suit schedule land i.e. Sy. No. 919 extent of 0-27 guntas and Sy. No 922 extent of 0-26 guntas total admeasuring 1-13 guntas from its original vendor Kanuganti Galaiah @ Kongari Galreddy through registered document No. 529/09 for a valid consideration of Rs. 36,437/- on 22-4-09. The petitioner/defendant filed a suit as per documents i.e, registered sale deed before this Court which after verifying the documents granted an interim injunction order against the petitioner. The boundaries mentioned are as per documents, the respondent/plaintiff is no way concerned by numbers. The petitioner/defendant created a concocted story against the respondent plaintiff, there is no truth in his plea. Thus in the above facts and circumstances, it is prayed that the Hon'ble court may be pleased to dismiss the Petition with costs in the interest of justice and equity.

4. No evidence was adduced on either side. Heard learned Petitioner counsel. In spite of giving several adjournments, the respondent's counsel did not submit his hearing. Perused the material on record.
5. Now the point for determination is:

“Whether the plaint is liable to be rejected under Order VII Rule 11 of C.P.C, 1908 as prayed by the petitioner”?

6. The contention of the petitioner is that the plaint is to be rejected on certain grounds which will be discussed as follows.
7. Firstly, the petitioner contends that the Plaintiff did not state that petitioner is also having agricultural lands in the same survey numbers and hence suit is not

maintainable and liable to be rejected. But non disclosure of the said fact is not a ground for rejection of plaint as contemplated under Order VII Rule 11. The Hon'ble Supreme Court in several cases and as recently as in *H.S. Deekshit & Anr. Versus M/S. Met Ropoli Overseas Limited & Ors.* has held that "While considering an application under Order 7 Rule 11 of the Code, the averments in the plaint alone are to be examined and no other extraneous factor can be taken into consideration."¹Hence, the petitioner's defence cannot be considered at this stage to reject the plaint. They shall be considered at the time of trial.

8. Secondly, the petitioner's contention is that as per the documents which were filed by the Plaintiff, different survey numbers are shown, i.e. in the Registered sale deed document No. 529/2009 22-04-2009, the Sy. No. 919, 922 is shown whereas in the Pahanies and e-title/Pass Book Sy.No.919/Ru/1, Sy.No.922/UU is shown, hence the plaint is to be rejected. It is common knowledge that as the transactions happen for a particular parcel of land, the survey numbers are subdivided. The registered sale deed is of the year 2009 and that pahanies/e title pass book are of years 2017- 2019, hence since 2009 there could've been other transactions whereby the subdivisions were created as seen in latter documents. In any case, this is not at all a ground for rejection of plaint.
9. Thirdly, the contention of the petitioner is that as per the e-pass/title books the suit schedule properties mentioned is ancestral property but the plaintiffs stated that it is acquired through registered sale deed document No. 529/2009, Dated: 22-04-2009 which is contradictory and hence the suit is not maintainable. The perusal of the plaint shows that the plaintiffs have indeed contended that the plaintiffs have acquired the petition schedule property by registered sale deed. Thereafter, on perusal of the passbook of plaintiff, show that the property is acquired by inheritance (anuvamshikam). Hence the petitioner's contention may be true. But this apparent contradiction is not a ground for rejection of plaint as contemplated under Order VII Rule 11. In any case, the revenue records are not conclusive proof of the nature of the property. The question as to how the plaintiff came into the possession of the suit schedule property shall be the subject of the trial and it would be premature to reject the plaint for such a reason.
10. Lastly, the petitioner contended that the suit schedule properties are not situated within one block, but the plaintiffs mentioned the single boundaries, hence the suit schedule properties boundaries are wrong and hence the suit is not maintainable and liable to be rejected. As stated already, while deciding the petition under Order VII

1 H.S. Deekshit v. Metropoli Overseas Limited, 2022 SCC OnLine SC 2024 at ¶ 5.

Rule 11, the plaintiff alone should be considered, facts adduced by the petitioner ought not be considered. Thus, whether the boundaries are incorrect shall be decided at the time of trial. It cannot be a ground for rejection of plaintiff.

11. Thus, the petitioner could not satisfy the court that there are grounds for rejecting the plaintiff in the instant case. As such, the court does not opine that the plaintiff is liable to be rejected as prayed by the petitioner. Thus, the point is answered in favour of the respondent and against the petitioner.
12. As a result, the petition is dismissed without costs.

Typed to my dictation by Stenographer-Grade III corrected and pronounced by me in the open court, this the 14th June, 2024.

**JUNIOR CIVIL JUDGE,
DUBBAK.**

APPENDIX OF EVIDENCE

//No oral or documentary evidence was adduced on either side//

**JUNIOR CIVIL JUDGE,
DUBBAK.**