

Order 13

08.4.24

Today is fixed for hearing of the application of the defendants dtd 17.1.23 u/o 7 Rule 11 read with section 151 CPC.

Both the sides file haziras. Plaintiffs file a petition praying for extending the force of ad-interim order of temporary injunction passed in this suit.

Now the application u/o 7 Rule 11 read with section 151 CPC is taken up for consideration. Heard the Ld. Advocates for both the sides.

Perused the application, whereby the defendants have prayed for passing necessary order to reject the plaint on the ground of absence of any cause of action in view of the fact that the defendants are not now the owners of the suit property they having transferred the same to Smt Jasoda Singh and three others on 8.9.21 by virtue of a registered deed of a conveyance and that the plaintiffs, despite having full knowledge about the said fact, have brought this suit against the defendants only for the purpose of harassing them unnecessarily.

The plaintiffs have resisted and contested the said application by filing a WO denying all the material allegations contained therein and have prayed for rejection of the same mainly on the ground that the bundle of facts narrated in the body of the plaint do constitute sufficient cause of action in favour of the plaintiffs and as such the provision of Order 7 Rule 11 CPC has got no application to the instant suit.

At the very first instance necessity is felt to consider the provision of Order 7 Rule 11 CPC which runs as follows :-

*Rejection of plaint – The plaint shall be rejected in the following cases -*

- (a) where it does not disclose a cause of action;*
- (b) where the relief claimed is undervalued and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;*
- (c) where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the court to supply the requisite stamp paper within a time to be fixed by the Court, fails to do so;*
- (d) where the suit appears from the statement in the plaint to be barred by any law;*
- [(e) where it is not filed in duplicate;]*

*[ where the plaintiff fails to comply with the provisions of Rule 9]*

*[Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-papers shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-papers, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.]*

It is very well settled as observed by the Hon'ble Apex Court in a catena of decisions like (2012) 8 SCC 701, (2007) 10 SCC 59, (2007) 5 SCC 614, (2006) 3 SCC 100, (2004) 3 SCC 137, (2003) 1 SCC 557, etc that ' . . . . . while considering an application under Order 7 Rule 11 CPC, the court has to examine the averments in the plaint only and the plea taken by the defendant in the WS are irrelevant . . . '

In view of the above, in order to ascertain as to whether the plaint of the instant suit really discloses presence of cause of action or not is to be ascertained for disposal of the instant application.

From the plaint it is evident that this is a suit for declaration, permanent injunction and other consequential reliefs filed by the plaintiffs to protect their possession in respect of the suit property from the defendants on the plea that they are co-owners of the suit property by virtue of inheritance on the death of their predecessor in interest, who was one of the co-sharers of the suit property, and that the defendants are trying to dispossess them from the suit property forcibly, illegally and unlawfully i.e. otherwise than in due process of law.

Upon a plain reading of the contents of the plaint it is abundantly clear that the bundle of facts narrated therein do constitute sufficient case of action in favour of the plaintiffs to bring this suit against the defendants which has been categorically disclosed in the plaint. There is no whisper in any corner of the plaint wherefrom it can be ascertained that the plaintiffs had knowledge about transfer of the suit property by the defendants to others.

In view of the above position the plea of the defendants about non-disclosure of cause of action in the plaint is not at all correct. Question of taking into account the copies of documents furnished by the defendants in support of their contention does not arise in view of the fact that in order to dispose of a prayer u/o 7 Rule 11 CPC only the averments made in the plaint are to be looked into and nothing more than that.

Totality of the aforesaid findings, observations and deliberations impels this court to arrive at the definite conclusion that the ground on which the defendants have sought for passing order to reject the plaint has no merit at all and as such the application under consideration is liable to be rejected.

Hence it is

Ordered

that the application of the defendants u/o 7 Rule 11 CPC dtd 17.1.23 is hereby rejected on contest.

Fix 09.05.24 for hearing of the injunction application. The force of ad-interim order of temporary injunction is extended till that date.

D/C by me

Judge

Judge 2<sup>nd</sup> Bench