



HIGH COURT OF ANDHRA PRADESH
MONDAY ,THE EIGHTH DAY OF MARCH
TWO THOUSAND AND TWENTY ONE

PRSENT

THE HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO
CIVIL REVISION PETITION NO: 1148 OF 2020

Between:

1. Kuppam Venkata Prasad S/o. Veeraiah, Hindu, aged about 55 years,
Chairman -cum-Managing Director,
M/s Sarika Para Boiled Rice Mill Pvt. Limited, office at H/o. 4-6-1/99, 4th
Lane, 5th Cross, Ashok Nagar, Guntur Town, Guntur District.
2. Thota Purna Chandra Rao S/o. Venkateswarlu, Hindu, aged about 66
years, Occ Business, R/o. H.No.2/38-1, 10th Line, Pandaripuram,
Chilakaluripet Town, Guntur District.

...PETITIONER(S)

AND:

1. Gatta Rama Mohan Rao S/o. Surya Narayana, Hindu, aged about 67
years, Occ Business, R/o. D.No.24/88, Gandhipet,
Chilakaluripet Town and Mandal,
Guntur District.

...RESPONDENTS

Counsel for the Petitioner(s): A K KISHORE REDDY

Counsel for the Respondents: THOTA RAMAKOTESWARA RAO

The Court made the following: ORDER



HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

CIVIL REVISION PETITION No. 1148 of 2020

Between:

Kuppam Venkata Prasad and another

.. Petitioners

and

Gatta Rama Mohan Rao

.. Respondent

DATE OF JUDGMENT PRONOUNCED: 08.03.2021

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
2. Whether the copies of judgment may be marked to Law Reporters/Journals? Yes/No
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No

U. DURGA PRASAD RAO, J



*THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

+Civil Revision Petition No.1148 of 2020

% 08-03-2021

Kuppam Venkata Prasad and another .. Petitioners

Vs.

\$ Gatta Rama Mohan Rao .. Respondent

<GIST:

>HEAD NOTE:

! Counsel for petitioners : Sri A.K. Kishore Reddy

^ Counsel for respondent : Sri Thota Ramakoteswara Rao

? CASES REFERRED :

1. MANU/SC/0485/2017=AIR 2017 SC 2653
2. MANU/SC/0367/2019=AIR 2019 SC 1430
3. MANU/OR/0018/1997=82(1996)CLT 653
4. MANU/RH/0195/1999=AIR 1999 Raj 102
5. MANU/UP/0061/1997=AIR 1997 ALL 323

**THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO****Civil Revision Petition No.1148 of 2020****ORDER:**

The challenge in the C.R.P. is to the order in CMA.No.4/2017 passed by the learned XIII Additional District Judge, Narasaraopet setting aside the order dated 09.12.2015 in I.A.No.368/2015 in O.S.No.113/2015 filed by the defendants.

2. O.S.No.113/2015 is filed by the respondent/plaintiff seeking perpetual injunction decree against the petitioners/defendants in respect of plaint schedule property. The petitioners/defendants filed I.A.No.368/2015 under Order VII Rule 11 CPC seeking to reject the plaint on the main grounds that the plaintiff did not disclose proper cause of action and further, the suit is barred under law i.e., contrary to Sections 5, 8 & 19 of the Transfer of Property Act. The trial Court accepted the contention of the petitioners/defendants and observed that having regard to the pleadings the plaintiff cannot be said to be the title holder in respect of item Nos.4 & 5 of the plaint schedule and consequently he cannot claim possession over them and to that extent injunction decree cannot be granted to him and the suit cannot be partly rejected and it should be rejected as a whole on that score. Aggrieved, the respondent/plaintiff filed CMA.No.4/2017. The lower appellate Court found fault with the findings of the trial Court. It observed that when it is a specific case of the plaintiff that he is the owner of the plaint schedule property and he never handed over the



suit schedule properties to M/s. Sarika Para Boiled Ricemills Pvt. Ltd., yet, the trial Court came to a hasty and premature conclusion that the Sale Deeds stand in the name of the company and therefore, title vests with the company and the trial Court further concluded that items 4 & 5 were purchased after the company was incorporated and therefore, the plaintiff was not the title holder of items 4 & 5. Learned appellate Judge held, rightly in my view, the conclusion arrived by the trial Court is hasty and premature without trial being conducted. It further observed that whether plaintiff is entitled to injunction or not has to be decided once the detailed trial is conducted, but not in the I.A. stage itself that too when it is the specific contention of the plaintiff before the trial Court that M/s. Sarika Para Boiled Ricemills Pvt. Ltd. has nothing to do with the suit schedule properties. The lower appellate Court accordingly allowed the CMA.No.4/2017 and set aside the order in I.A.No.368/2015.

Hence, the C.R.P.

3. Heard Sri A.K.Kishore Reddy, learned counsel for petitioners, and Sri Thota Ramakoteswara Rao, counsel for the respondent.
4. Learned counsel for petitioners tried to impress upon the Court that when the suit is barred by any law or when the plaint does not disclose cause of action, the suit is liable to be rejected. There is no demur in the aforesaid principle as laid down under Order VII Rule 7 CPC. However, it must be added that the aspects whether the suit is barred by limitation and whether the plaint does not disclose cause of



action, if required to be decided by taking into various facts, then the Court cannot reject the plaint at the threshold unless the trial is conducted. It must be noted that at the inceptional stage the pleadings in the plaint alone should be taken into consideration to decide whether it is worthy of registration. In that context, when the copy of the plaint filed along with material papers is perused, the plaintiff has clearly narrated his cause of action as follows:

“Cause of action for the suit arose when the plaintiff purchased the schedule properties on 27-08-1999, 28-08-1999, 04-09-1999, 1-10-1999 and 01-10-1999 with his own money and the plaintiff have been in possession and enjoyment of the schedule properties without any interruption from anybody, when the Revenue Dept. issued Pattadar Pass Book and Title Deed pass book in favour of plaintiff on 12-02-2001, when the plaintiff paid land Revenue to the Govt., since ten days when the defendants are making hectic efforts to interfere with the plaintiff’s peaceful possession and enjoyment of the schedule properties at Kesanupalli where the schedules are situated within the jurisdiction of this Honourable court.”

5. The truth or otherwise of the contents in the cause of action can be tested only after the defendants filed their written statement and the trial has taken place. However, at the preliminary stage the plaint cannot be rejected taking into consideration the contention of the defendant in his written statement. Order VII Rule 11 is clear on this aspect. It reads thus:

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;
- (f) 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-paper 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 for correcting the valuation or supplying the requisite stamp-paper, 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.”

Order VII Rule 11(a) CPC says that the plaint shall be rejected where it does not disclose the cause of action. In the instant case, as already extracted supra, the plaint pellucidly narrates the cause of action. Therefore, at this stage plaint cannot be rejected on the ground that it does not disclose cause of action.

6. Then come to limitation aspect, Order VII Rule 11(d) says that the plaint shall be rejected where the suit appears from the statement in the plaint to be barred by any law. So, to reject the plaint on the ground that it was time barred, the facts narrated in the plaint alone, in my view, have to be considered. My view gets support from the following decisions:

i) ***Madanuri Sri Rama Chandra Murthy Vs. Syed Jalal***¹. In the said decision, the Hon’ble Supreme Court held thus:

“8. The plaint can be rejected Under Order VII Rule 11 if conditions enumerated in the said provision are fulfilled. It is needless to observe that the power Under Order VII Rule 11, Code of Civil Procedure can be exercised by the Court at any stage of

¹ MANU/SC/0485/2017=AIR 2017 SC 2653



the suit. The relevant facts which need to be looked into for deciding the application are the averments of the plaint only. If on an entire and meaningful reading of the plaint, it is found that the suit is manifestly vexatious and meritless in the sense of not disclosing any right to sue, the court should exercise power Under Order VII Rule 11, Code of Civil Procedure. Since the power conferred on the Court to terminate civil action at the threshold is drastic, the conditions enumerated Under Order VII Rule 11 of Code of Civil Procedure to the exercise of power of rejection of plaint have to be strictly adhered to. The averments of the plaint have to be read as a whole to find out whether the averments disclose a cause of action or whether the suit is barred by any law. It is needless to observe that the question as to whether the suit is barred by any law, would always depend upon the facts and circumstances of each case. The averments in the written statement as well as the contentions of the Defendant are wholly immaterial while considering the prayer of the Defendant for rejection of the plaint. Even when, the allegations made in the plaint are taken to be correct as a whole on their face value, if they show that the suit is barred by any law, or do not disclose cause of action, the application for rejection of plaint can be entertained and the power Under Order VII Rule 11 of Code of Civil Procedure can be exercised. If clever drafting of the plaint has created the illusion of a cause of action, the court will nip it in the bud at the earliest so that bogus litigation will end at the earlier stage.”

ii) ***Raghwendra Sharan Singh Vs. Ram Prasanna Singh (dead) by L.Rs².***

The Apex Court, while referring to its earlier judgments including ***Madanuri Sri Rama Chandra Murthy’ case*** (1 supra), while reiterating the principle that to reject the plaint under Order VII Rule 11 CPC, the contents of the plaint alone are to be looked into, held that in the case on hand, the averments in the plaint themselves would show that the plaintiff having executed the gift deed about 20 years back, by clever pleading, claimed in the plaint as if the gift deed was only a showy document and filed the plaint and therefore, from the pleadings themselves, the suit was barred by limitation.

² MANU/SC/0367/2019=AIR 2019 SC 1430



iii) ***Satyananda Sahoo Vs. Ratikanta Panda***³ in which the High Court of Orissa held thus:

“21. xxx xxx xxx xxx xxx xxx xxx xxx xxxxxx xxxxxx xxx xxx xxxxxxxx If, after ascertaining and undraping the plaint and scanning the averments in their conceptual eventuality it is found that a clear cause of action not only exists but survives to be adjudicated in a court of law without being hit by the prescription of limitation, the court should admit the suit, otherwise law has to take its own course. As the learned trial Judge has not dealt with the question from this aspect and the order has not been made on consideration of these factors, I am inclined to set aside the same and direct the trial Judge to reconsider the matter again. I would make it clear that while dealing with the said aspect, the court below should examine the plaint and the plaint alone, and no other material in finding out a clear cause of action and subsistence thereof for the purpose of adjudication in law. (Emphasis supplied)

iv) ***Mohan Lal Sukhadia University, Udaipur Vs. Priya Soloman***⁴. In the said decision, the High Court of Rajasthan held thus:

“4. Clause (d) of Rule 11 of Order 7, C.P.C. reads-- "where the suits appears on the statement in the plaint to be barred by any law". A bare perusal of Clause (d) of Rule 11 of Order 7, C.P.C. shows that for the purpose of invoking this clause the suit must be barred by any law in view of the statements made by the plaintiff himself in the plaint. In the instant case, I am afraid that the requirement of Clause (d) of Rule 11 of Order 7, C.P.C. is not fully satisfied because the plaintiff has stated in the plaint that the cause of action accrued to the plaintiff on 12/14-10-1998 when the plaintiff's prayer for grant of gold medal was rejected. Whether this statement is or is not correct does not arise for consideration at this stage. Suffice it to say that the above-mentioned statement made by the plaintiff in the plaint that the suit was within limitation as the cause of action had accrued on 12/14-10-1998, does not attract the provisions of Clause (d) of Rule 11 of Order 7, C.P.C.”

v) ***ITC Limited Vs. Rakesh Behari Srivastava and others***⁵ in which the High Court of Allahabad held thus:

“10. xxx xxx xxx xxx xxx xxxxxx xxxxxx xxx xxxxxx xxxxxx xxx To conclude on this Chapter, I hold that irrespective of any objection taken by the defendant, it is the duty of the Court to see if the plaint really discloses any cause of action or if the plaint was barred under the provisions of any law. The defendants may

³ MANU/OR/0018/1997=82(1996)CLT 653

⁴ MANU/RH/0195/1999=AIR 1999 Raj 102

⁵ MANU/UP/0061/1997=AIR 1997 ALL 323



indicate to the Court by an application that the plaint is liable for rejection under Order 7, Rule 11, C.P.C. but primary it is the duty of the Court to decide the matter and for that reason it is the plaint only, which is to be seen for a decision under Order 7, Rule 11, C.P.C.”

7. In the light of the above jurimetrical jurisprudence, on perusal of the plaint averments, there can be scope to conclude that the suit is barred by limitation by any law. Of course, the defendant through his contentions in the statement and proof offered in trial, may convince the Court that the suit is barred by any law. This exercise can be undertaken only after trial, as rightly held by the lower appellate Court, but not at the neonatal stage of the suit.

8. Having regard to the above trite law, I find no merits in the C.R.P. and accordingly, the Civil Revision Petition is dismissed. No costs.

As a sequel, Interlocutory Applications, if any pending, shall stand closed.

U. DURGA PRASAD RAO, J

08.03.2021
MVA

Note: L.R. copy be marked
(B/o)
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