

2023 LiveLaw (SC) 311

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
ABHAY S. OKA; J., RAJESH BINDAL; J.**

April 11, 2023

CIVIL APPEAL NO.2737 OF 2023 (Arising out of SLP (Civil) No. 19944 of 2019)
G. NAGARAJ & ANR. versus B.P. MRUTHUNJAYANNA & ORS.

Code of Civil Procedure, 1908; Order VII Rule 11 - For dealing with an application under Rule 11 of Order VII of CPC, only the averments made in the plaint and the documents produced along with the plaint are required to be seen. The defence of the defendants cannot be even looked into. When the ground pleaded for rejection of the plaint is the absence of cause of action, the Court has to examine the plaint and see whether any cause of action has been disclosed in the plaint - Merely because there were some inconsistent averments in the plaint, that was not sufficient to come to a conclusion that the cause of action was not disclosed in the plaint. The question was whether the plaint discloses cause of action. (Para 6-9)

(Arising out of impugned final judgment and order dated 24-04-2019 in RFA No. 239/2019 passed by the High Court of Karnataka at Bengaluru)

For Petitioner(s) Mr. Naveen R. Nath, Sr. Adv. Ms. Hetu Arora Sethi, AOR Ms. Saumyan Tandon, Adv. Ms. Lalit Mohini Bhat, Adv. Mr. Nagesh, Adv. Ms. Disha Gupta, Adv.

For Respondent(s) Ms. Vrinda Bhandari, Adv. Mr. N K Verma, Adv. Ms. Anjana Chandrashekar, AOR

J U D G M E N T

Abhay S.Oka, J.

Leave granted.

2. Heard the learned senior counsel appearing for the appellants and the learned counsel appearing for the second and third respondents.

3. The appellants are the original plaintiffs. The appellants filed a suit in the City Civil Court at Bangalore claiming a declaration of title in favour of the first appellant in respect of the suit property. The second prayer was for grant of permanent injunction restraining the respondents from interfering with the possession of the first appellant. In the alternative, a prayer was made that in the event the Court comes to the conclusion that the first appellant was not in possession of the suit property, a decree for possession be passed against the second respondent.

4. On an application made by the respondent Nos. 2 and 3, the Trial Court rejected the plaint by exercising power under Rule 11 (a) of Order VII of the Code of Civil Procedure, 1908 (for short 'CPC') on the ground that the plaint does not disclose the cause of action.

5. After having heard the learned counsel appearing for the appellants and the learned counsel appearing for the second and third respondents, we find that the entire approach of the Trial Court as well as the High Court in dealing with the prayer made under Rule 11 of Order VII of CPC was erroneous. The ground on which rejection of the plaint was sought was that the plaint does not disclose any cause of action. We are surprised to note that while dealing with the application under Rule 11 (a) of Order VII of CPC, the Trial Court even framed an issue "whether there exists any cause of action on 20th February, 2016 for the plaintiffs to file a suit".

6. The law is well settled. For dealing with an application under Rule 11 of Order VII of CPC, only the averments made in the plaint and the documents produced along with the plaint are required to be seen. The defence of the defendants cannot be even looked into. When the ground pleaded for rejection of the plaint is the absence of cause of action, the Court has to examine the plaint and see whether any cause of action has been disclosed in the plaint.

7. A perusal of the judgments of the Trial Court and the High Court will show that the Courts have gone into the question of correctness of the averments made in the plaint by pointing out inconsistent statements made in the plaint. The Courts have referred to the earlier suits filed by the appellants and have come to the conclusion that the plaint does not disclose cause of action.

8. The learned counsel appearing for the second and third respondents vehemently submitted that on a plain reading of the plaint, it is crystal clear that cause of action is not disclosed. Therefore, we have perused the plaint. After having perused the plaint and in particular paragraphs 16 and 17, we find that the cause of action for filing the suit has been pleaded in some detail. It is pleaded how the first appellant acquired title to the property. The facts constituting alleged cause of action have been also incorporated in paragraph 17.

9. We are of the view that merely because there were some inconsistent averments in the plaint, that was not sufficient to come to a conclusion that the cause of action was not disclosed in the plaint. The question was whether the plaint discloses cause of action. As observed earlier, the plaint does disclose cause of action. Whether the appellants will ultimately succeed or not is another matter.

10. Hence, we set aside both the impugned orders and restore Original Suit No.4252 of 2016 to the file of the City Civil Court. We direct that the suit shall be decided in accordance with law. We make it clear that we have dealt with averments made in the plaint only for the purposes of ascertaining whether any cause of action is disclosed in the plaint. Therefore, all issues on merits are left open. The appeal is accordingly allowed.