

2022 LiveLaw (SC) 703

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
HEMANT GUPTA; J., VIKRAM NATH; J.
AUGUST 16, 2022

Civil Appeal No. /2022 (@ Petition for Special Leave to Appeal (C) No.2177/2022)
H.S. DEEKSHIT & ANR. versus M/S. MET ROPOLI OVERSEAS LIMITED & ORS.

Code of Civil Procedure, 1908; Order VII Rule 11 - Averments in the plaint alone are to be examined while considering an application for rejection of plaint - No other extraneous factor can be taken into consideration.

(Arising out of impugned final judgment and order dated 14-09-2021 in CRP No. 307/2020 passed by the High Court of Karnataka at Bengaluru)

For Petitioner(s) Mr. Anil C. Nishani, Adv. Mr. H.I. Jayaramu, Adv. Ms. Veena Katarki, Adv. Mr. Anurag Katatki, Adv. Mr. T. R. B. Sivakumar, AOR

For Respondent(s) Mr. Parbhu Patial, Sr. Adv. Mr. Devashish Bharuka, AOR Mr. Sharshree, Adv. Mr. Ravi Bharuka, AOR

ORDER

Leave granted.

The challenge in the present appeal is to an order passed by the High Court of Karnataka at Bengaluru on 14.09.2021, whereby the revision petition filed by the defendant No.3 was allowed and plaint rejected in terms of Order 7 Rule 11(a) and (b) of the Code of Civil Procedure, 1908 (for short "the Code").

The plaintiffs have pleaded as under:

"11. The plaintiffs further submit that as already stated above after the enquiry by the plaintiffs with the defendant no 1 and 2 have denied the very execution of the alleged execution of the agreement to sell dated 3/2/1995 registered in the office of the sub-registrar at Nelamangala as document no 2282/1994 and the copy of the same is now obtained on 18/6/20 and produced as Document no 17 for kind perusal of this Hon'ble court. That after the perusal of the same revealed the facts that the signatures available on the same are not that of the defendants and the same is forged one. It is important to note that there is no thumb impression of the defendant no 1 and 2 on the registered agreement which is mandatory one. This shows that the alleged agreement is concocted one with the active connivances of the subregistrar at Nelamangala. Likewise, the plaintiffs have also obtained the copy of registered copy of the registered GPA alleged to have been executed by the defendants no 1 and 2 in respect of the suit property. It appears that even the GPA is also the fabricated by the defendant no 3 with the active help of the villagers who are inimically disposed to the plaintiff's family with the intention to snatch the valuable suit property for wrongful gain. The same was also registered in the office of the sub-registrar at Nelamangala as document no 102/1995 dated 15/2/1995. The copy of the same is produced herewith for kind perusal of this Hon'ble court and shown as document no 18."

It is further pleaded that the sale deeds were executed by Pawan Kumar Dalmia on the basis of alleged fabricated General Power of Attorney. Such suit was filed in the year 2020 after a suit for the perpetual injunction was filed by defendant No. 3.

It is well-settled 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. On the basis of averments made by the plaintiffs in the suit as mentioned above, we find that it is disputed question of fact as to whether the Agreement to Sell, the Power of Attorney and the Sale Deeds are forged and fabricated documents. Such questions are required to be decided on the basis of evidence to be led by the parties. We do find that the forgery pleaded cannot be a ground for rejection of the plaint.

In view of the said fact, the order passed by the High Court is set aside. The suit stands restored to its original number. The appeal is accordingly disposed of.

In the said suit, it shall be open to the parties to raise all questions of law and facts. The suit be decided expeditiously in accordance with law.

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