
(2016) 12 AHC CK 0120
In the Allahabad High Court
Case No : Civil Revision No. 420 of 2016

Braj Bhushan

APPELLANT

Vs

Najir Ahmad

RESPONDENT

Date of Decision : 06-12-2016

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 7 Rule 11

Citation : (2017) 1 ARC 96

Hon'ble Judges : Anjani Kumar Mishra, J.

Bench : Single Bench

Advocate : Saurabh Trivedi and Pradeep Kumar Rai, Advocates, for the Revisionists

Final Decision : Dismissed

Judgement

Anjani Kumar Mishra, J.— Heard learned counsel for the revisionist.

2. This revision is directed against the order dated 03.10.2016 passed by Civil Judge (Senior Division), Muzaffar Nagar in Civil Suit No.1312 of 2013, whereby the revisionists application, under Order 7, Rule 11 CPC, has been dismissed.

3. The contention of learned counsel for the revisionist is that the plaint did not give requisite particulars of the immovable property in suit and therefore the same was not identifiable. In these circumstances, the application under Order 7, Rule 11 CPC has wrongly and illegally been dismissed. Reliance has also been placed in the judgments of Laxman Singh v. Jagannath, 1999 LawSuit (MP) 359 and Bandhu Das v. Uttam Charan Pattanaik, 2007 AIR (Ori) 24.

4. In my considered opinion, the arguments that are being raised are mis-conceived. While considering an application, under Order 7, Rule 11 CPC, the Court is required to consider the plaint allegation to determine as to they disclose a cause of action. It is also to be seen as to whether the suit appears to be barred by same law, in view of the plaint allegations, themselves.

5. The submissions that have been made before the Courts below as also before this Court are only to the effect that the suit property is not identifiable on the spot.
6. This aspect, in my considered opinion, cannot be considered, while considering an application, under Order 7, Rule 11 CPC. It is neither the case of the revisionist nor has been argued that the plaint does not disclose a cause of action.
7. It is only sought to be submitted that since the relevant details of the immovable property in the suit has not been given, the same is not identifiable and therefore, the suit cannot be decreed. It is this submission, which is sought to be buttressed by the two authorities cited above.
8. As already observed herein-above, the question as to whether the suit as framed is liable to be decreed or not, cannot be considered by the Court while dealing with an application, under Order 7, Rule 11 CPC. It is only to be seen whether the plaint discloses a cause of action. The Court is not required to examine the case, as to whether the suit will ultimately be decreed. Such issue is to be determined after the evidence of the parties has been led and the suit is decided finally.
9. This Court therefore is constrained to hold that the application under Order 7, Rule 11 CPC was filed, raising issues, which were not required to be considered while dealing with an application, under Order 7, Rule 11 CPC.
10. The impugned order whereby the application, under Order 7, Rule 11 CPC has been dismissed, therefore, does not suffer from any jurisdictional error.
11. The revision is accordingly, dismissed.