
(2011) 06 AP CK 0069

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 2273 of 2011

Dantala Praveen

APPELLANT

Vs

Bairaboina Veeramma and Others

RESPONDENT

Date of Decision : 27-06-2011

Acts Referred:

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

Citation : (2011) 5 ALT 626

Hon'ble Judges : C.V. Nagarjuna Reddy, J

Bench : Single Bench

Advocate : K. Narasimhachary, for the Appellant;

Final Decision : Allowed

Judgement

C.V. Nagarjuna Reddy, J.—This Civil Revision Petition arises out of order dated 30-5-2011 in O.S.S.R. No. 685/2011 on the file of II Additional District Judge, Nalgonda.

2. Since the impugned order was passed even before process was issued to the proposed Defendants in the suit, it is not necessary to put them on notice.

3. The Petitioner is the Plaintiff in the above noted suit filed for specific performance of agreement of sale dated 30-3-2008 in respect of Ac.0-15 guntas in Sy. Nos. 228 and Ac.0-33 guntas in Sy. No. 232, Bebigudem village of Chivemula Mandal, Nalgonda District. When the suit was presented, an objection regarding court fee was initially raised and the plaint was returned on 15-3-2011. After compliance of the said objections, when the plaint was resubmitted, the same was rejected by the order under revision. The reason for rejection of the plaint by the court below is that there is a material discrepancy regarding survey numbers between the agreement of sale and the plaint. The court below purporting to rely upon a judgment of the Supreme Court, reference to which has not been made in the order, to the effect that the boundaries prevail over the survey numbers, rejected the plaint in view of the said discrepancy.

4. At the hearing, Sri Narasimhachari, learned Counsel for the Petitioner/Plaintiff advanced two contentions, namely, (1) that the order of the lower court is patently illegal because it is not the function of the court to examine the documents with reference to the prayer and reject the plaint on the ground of the purported discrepancy and (2) that the ground of rejection is not one of the grounds envisaged in Order VII Rule 11 of the Code of Civil Procedure, 1908 (for short "the Code"). Even if the court below wanted to know the reason for the discrepancy, contends the learned Counsel, it ought to have looked into legal notice dated 28-8-2008 issued by the Petitioner's counsel, which would explain the reason for variation in survey numbers in the suit agreement and the plaint.

5. Order VII Rule 11 of the Code envisage the grounds on which the plaint can be rejected. They are:

- (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;

6. The grounds prescribed in the above statutory provision are exhaustive and not merely illustrative. Therefore, unless the court is satisfied that any of the grounds prescribed by the statute exists, it cannot reject the plaint. At the stage of presentation of the suit, the court can only insist on strict compliance of the provisions of the Code and reject the plaint only if it is satisfied that one or more of the grounds mentioned in Order VII Rule 11 of the Code are present. In this view of the matter, it is not even necessary for this Court to advert to the second contention advanced by the learned Counsel for the Petitioner. However, for academic sake when this Court examined the record, a perusal of the legal notice dated 26-8-2008 would show that it is the specific case of the Petitioner/Plaintiff that after execution of the agreement, he came to know that the Respondents/Defendants misrepresented to him that Sy. Nos. 228 and 232 belong to them but they have agreed to sell the land in Sy. No. 233. Whether this plea is correct or not needs to be adjudicated by the lower court in the suit, on contest by the Respondents/Defendants. It is not the function of the court to involve itself in examination of the purported discrepancy in a minute manner and reject the plaint on such a ground at the threshold. Such a procedure is not sanctioned by

law and the court below has made a perverse approach in rejecting the plaint presented by the Petitioner/Plaintiff.

7. For the above mentioned reasons, the order under Revision is set-aside. The lower court is directed to register the suit without raising further objections and issue process to the Defendants at the earliest possible time. The Civil Revision Petition is accordingly allowed.