
(1992) 11 AP CK 0014

In the Andhra Pradesh High Court

Case No : Appeal Against Order No. 1050 of 1992

J.S. Raghupathi Rao

APPELLANT

Vs

Smt. P. Ramadevi

RESPONDENT

Date of Decision : 20-11-1992

Acts Referred:

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

Citation : (1993) 1 ALT 332

Hon'ble Judges : Eswara Prasad, J

Bench : Single Bench

Advocate : P.S. Narayana, for the Appellant; P. Gangarami Reddy, for the Respondent

Final Decision : Allowed

Judgement

Eswara Prasad, J.—The Court below rejected the plaint on the ground that the Original Suit agreement was not filed and only a Xerox copy was sought to be filed alongwith the plaint. Under Order 7, Rule 11 CPC, a plaint can be rejected only in cases enumerated in Rule 11 and not otherwise. Non-filing of the suit agreement is not one of the grounds on which, a plaint can be rejected.

2. The petitioner submitted in the lower Court that the original agreement of sale was misplaced and was not traceable and hence Xerox copy was filed along with plaint. The learned Judge was not correct in insisting on an explanation as to how the document was lost and as to what are the efforts made to trace the document. The petitioner stated in resubmitting the plaint that the Original agreement was lost and is not traceable for the present. No further explanation can be submitted by the petitioner. When the Original is not traceable, it is open to the petitioner, to file Xerox copy and the matter has to be dealt with at the trial of the suit.

3. The CMA is allowed and the lower court is directed to register the suit. The Xerox copy of the agreement can be considered, subject to proof and relevancy

which will be decided at the trial of the suit. No costs.