

(2013) 10 AP CK 0115
In the Andhra Pradesh High Court
Case No : C.R.P. No. 3310 of 2013

Kasani Narasimhulu

APPELLANT

Vs

Sathagowni Srinivas Goud and two Others

RESPONDENT

Date of Decision : 28-10-2013

Acts Referred:

Citation : (2014) 2 ALD 149 : (2014) 3 ALT 93

Hon'ble Judges : A.V. Sesha Sai, J

Bench : Division Bench

Advocate : Palivela Satyarajababu, for the Appellant; M. Vidyasagar, for the Respondent

Final Decision : Dismissed

Judgement

1. This revision, under Article 227 of the Constitution of India, is filed by the defendant in O.S. No. 25 of 2008, on the file the III Additional District and Sessions Judge (Fast Track Court) at Medak, against the order dated 28.06.2013 passed by the said Court, dismissing I.A. No. 189 of 2013 filed by the petitioner herein/defendant under Order VII Rule 11 read with Section 151 of the Code of Civil Procedure. The facts and circumstances leading to the filing of the present Civil Revision Petition are as follows:

2. The respondent herein instituted O.S. No. 25 of 2008, on the file of the Court of the III Additional District and Sessions Judge (Fast Tract Court) at Medak, seeking the following reliefs:

1. To direct the defendant to execute and registered the sale deed in favour of the plaintiff in respect of the suit schedule property situated at Narsing Village, Chegunta Mandal, Medak District, by receiving the balance sale consideration of Rs. 5,00,000/- in pursuant to the agreement of sale dated 25.11.2006.

1. That in alternatively, the defendant failed to register the sale deed in favour of the plaintiff in respect of the suit schedule property this Hon''ble Court may be pleased to execute and register the sale deed on behalf of the defendant, after

depositing the balance sale consideration in accordance with the law.

2. Direct the defendant to deliver the physical possession of the suit schedule property to the plaintiff, failing which, this Honourable Court may be pleased to deliver the possession of the suit schedule property to the plaintiff by adopting due process of law.

3. To award the costs of the suit.

4. To grant such other relief or reliefs for which the plaintiff is entitled.

3. In the said suit the defendant/petitioner herein filed written statement, resisting the plaint averments. In the said suit the defendant/petitioner herein filed the present I.A. 189 of 2013 under the provisions of Order VII Rule 11 read with Section 151 of the Code of Civil Procedure, seeking rejection of the plaint. The defendant/petitioner herein in the affidavit filed in support of the said I.A. 189 of 2013 contended that the suit agreement of sale dated 25.11.2006 does not contain proper schedule of property and the property mentioned in the agreement of sale is not carrying the location of the property where it is situated and it does not contain the name or place, taluq, mandal nor it contains the address of the Registrar or Sub-Registrar nor the district and the State where the property is situated; the alleged agreement of sale dated 25.11.2006 is vague and indistinguishable in nature and not with specific boundaries; property alleged to be agreed to sell is not having specific location or jurisdiction for its identification and no map nor sketch plan has been enclosed; the said document does not contain jurisdiction particulars which are basic in nature and are necessary for numbering the suit and to say that the suit dispute falls within the jurisdiction of the Court; respondents/plaintiffs utterly failed to comply with Order VII Rule 1 and Section 26 of the CPC as required by statute during the numbering of the suit; the Court lacks jurisdiction and the suit suffers from lack of cause of action and that the cause of action arose on 25.11.2006 is false and the property mentioned in the alleged agreement of sale is not the property mentioned in the suit schedule. In the receipt dated 25.11.2006 also there is no specific mention about the location where the property is situated and the property covered by alleged agreement of sale and the suit schedule property is not one and the same.

4. Pleading in the above said manner, the defendant/petitioner herein filed the said I.A. 189 of 2013, seeking rejection of the plaint.

5. Resisting the said application in I.A. 189 of 2013, the plaintiffs/respondents herein filed a counter affidavit, contending inter alia that parawise denial of averments in the plaint is not a ground for rejection of the plaint and the case is coming up for trial and only after full fledged trial the Court will decide the issue and the present application is only an attempt to drag on the case. The plaintiffs/respondents further stated in the counter affidavit that they filed chief-evidence along with I.A. 26 of 2011 for impounding the agreement of sale and the said I.A. 26 of 2011 was allowed by the Court and the same was sent to the District

Collector for impounding and after sending the document, the defendant/petitioner herein filed C.R.P. 787 of 2011 and the said C.R.P. was dismissed by the High Court and the present application is only for the purpose of dragging on the matter; the location or jurisdiction or identification and non-filing of the map or sketch plan could only come at the stage of trial and the Court has pecuniary and territorial jurisdiction and the suit is within time. The plaintiffs filed chief-examination affidavit and the case is coming up for marking the documents and for cross-examination.

6. Pleading so, the plaintiffs/respondents herein prayed the Court to dismiss I.A. 189 of 2013.

7. The learned District Judge, by virtue of an order 28.06.2013, dismissed I.A. 189 of 2013. Calling in question, the validity and the legal acceptability of the said order, the present Civil Revision Petition has been filed under Article 227 of the Constitution of India, urging the following grounds:

1. The order of the court below is completely illegal, against to law and much against to the precedents of the Hon"ble High Courts and the Hon"ble Supreme Court.

1. The trial court ought to have seen that the suit filed by the respondents herein for specific performance of the contract which is based on the suit document dated 25.11.2006; and ought to have seen that the schedule of the suit document does not contain where the property is situated namely, village, mandal and district and in other words, the suit document does not contain full descriptive particulars of the property and as such I.A. No. 189 of 2013 is to be allowed.

2. The trial court ought to have seen that jurisdiction for the courts is prescribed under the CPC and the suit shall have to be filed in the court where the property is situated and ought to have seen that pleadings in the suit includes the documents filed therein and when the suit is filed on the basis of a particular document and when the document does not contain where the immovable property is situated, the Court cannot have jurisdiction to decide the lis for the simple reason of jurisdiction, as such the court below ought to have held and allowed the application filed by the petitioner herein for rejection of the plaint.

3. The trial court ought to have seen that under the provisions of the Indian Evidence Act, no oral evidence can be let in when the contract is reduced into writing. In the present case, the contract reduced into writing i.e., the suit document and the suit document does not contain the full descriptive particulars where the immovable property is situated. Therefore, the trial court ought to have held that the court is not having jurisdiction and ought to have allowed the application filed by the petitioner.

4. The trial court, as seen from the order, had not understood the purport and command of law under Order VII Rule 11(d) of C.P.C. and not appreciated the

facts and documents and as such the order of the trial Court is liable to be set aside.

5. The findings, observations and conclusions which are arrived at by the trial court are not in consonance with law therefore the order under revision is liable to be set aside.

6. The order of the trial court, in any event, is not in accordance with law; as such the same is liable to be set aside to meet the ends of justice.

8. Reiterating the contents of the affidavit filed in support of I.A. 189 of 2013 and the grounds of the present revision, it is strenuously contended by Sri Palivela Satyarajababu, the learned counsel for the defendant/petitioner herein, that the order of the Court below is opposed to very spirit and object of the provisions of Order VII Rule 11 of the CPC and the Court below is not justified in dismissing the application filed by the petitioner herein. It is further contended by the learned counsel for the petitioner that the learned District Judge did not construe the language of Order VII Rule 11 in a proper perspective which resulted in dismissal of the application. It is further argued by the learned counsel for the petitioner that the suit is also hit by the provisions of Order VII Rule 3 of the Code of Civil Procedure. It is further contended by the learned counsel that since the document does not contain any particulars with regard to the location, Court below ought to have allowed the application and ought not to have assumed jurisdiction. It is further contended that since there is no cause of action shown by the plaintiffs, the suit itself is not maintainable and the application is liable to be rejected. In support of his contentions, the learned counsel for the defendant/petitioner herein placed reliance on the judgment of the Hon''ble Apex Court in *Sopan Sukhdeo Sable & Ors. v. Assistant Charity Commissioner & Ors.* (SLP (Civil) No. 20366 of 2002) and eventually the learned counsel has prayed this Court to allow the present Civil Revision Petition by setting aside the order passed by the Court below.

10 Per contra, it is contended by Sri M. Vidyasagar, the learned counsel for the plaintiffs/respondents herein, that the learned District Judge is perfectly justified in dismissing the application filed by the petitioner herein under Order VII Rule 11 and the said order is strictly in conformity with the provisions of Order VII Rule 11 of the Code of Civil Procedure. It is further contended by the learned counsel for the respondents that the respondents herein instituted suit in the year 2008 for enforcement of the suit document dated 25.11.2006 and having waited for nearly five years after institution of the suit, it would not be open for the defendant to file the present application and that the present application is only an attempt to drag on the matter. It is further contended by the learned counsel for the respondents that there are no ingredients of Order VII Rule 11 of the CPC in the case of the petitioner herein and in the absence of the same, the present application is not maintainable. It is further strenuously urged by the learned counsel that the issues raised by the petitioner herein are required to be considered after full fledged trial by the Court below. The learned counsel for the

respondent prayed this Court eventually for dismissal of the present Civil Revision Petition filed under Article 227 of the Constitution of India.

10. Now the points for consideration before this Court are whether the order passed by the learned District Judge is in conformity with the provisions of Order VII Rule 11 of the CPC and whether the same requires any correction by this Court in exercise of the powers conferred under Article 227 of the Constitution of India?

11. The relevant provision of law which is germane for the purpose of resolving the controversy in the present Civil Revision Petition is Order VII Rule 11 of the Code of Civil Procedure, which reads as under:

11. Rejection of plaint.--The plaint shall be rejected in the following cases:--

- (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;

12. Order VII Rule 11 of the CPC empowers the Courts to decide the applications under the contingencies stipulated therein. The said power which empowers the Courts to non-suit a person at the threshold is required to be exercised with great care, caution, circumspection, and very sparingly. While dealing with the provisions of Order VII Rule 11 of the Code of Civil Procedure, the Court has to take the pleadings in the plaint on their face value and the plaint cannot be rejected on the basis of the allegations made by the defendant in his written statement or in an application for rejection of the plaint. The Court has to read the entire plaint as a whole to find out whether it discloses cause of action and if it does, then the plaint cannot be rejected by invoking the provisions of Order VII Rule 11 of the Code of Civil Procedure. The disclosed cause of action is a question of fact which needs to be gathered on the basis of the averments made in the plaint in its entirety.

13. At this juncture it is relevant to refer to the Judgment of the Hon''ble Apex Court in *Mayar (H.K.) Ltd. and Others Vs. Owners and Parties, Vessel M.V. Fortune Express and Others*, and the judgments of this Court in *Kamala and*

Others Vs. K.T. Eshwara Sa and Others, Venture Global Engineering Company Vs. Satyam Computer Services Ltd. and Another, Kammila Damodar Rao Vs. Jillepalli Thandava Krishna Murthy and Another, , Gadiyaram Padmavathi and Others Vs. Addepalli Hanumantha Rao and Others, Thanamki Prasad Vs. Guntamadugu Puliamma and Others, Sri Laxmi Co-operative Housing Society Ltd. Vs. G.V. Mohan and Others, M.A.E. Kumar Krishna Varma Vs. Sri Ramoji Rao and Others, Agina Chandramouli Vs. Rajoori Ramalingam, Vadla Narasimhaiah and Others Vs. Vadla Kondaiah and Others, , Dantala Praveen Vs. Bairaboina Veeramma and Others, V. Narasimha Reddy Vs. Sara Abdul Gafoor and Others,

14. In Mayar (H.K) Ltd. (supra), the Hon"ble Apex Court at paragraphs 11 and 12 held as follows:

11. From the aforesaid, it is apparent that the plaint cannot be rejected on the basis of the allegations made by the defendant in his written statement or in an application for rejection of the plaint. The Court has to read the entire plaint as a whole to find out whether it discloses a cause of action and if it does, then the plaint cannot be rejected by the Court exercising the powers under Order VII Rule 11 of the Code. Essentially, whether the plaint discloses a cause of action, is a question of fact which has to be gathered on the basis of the averments made in the plaint in its entirety taking those averments to be correct. A cause of action is a bundle of facts which are required to be proved for obtaining relief and for the said purpose, the material facts are required to be stated but not the evidence except in certain cases where the pleadings relied on are in regard to misrepresentation, fraud, wilful default, undue influence or of the same nature. So long as the plaint discloses some cause of action which requires determination by the court, mere fact that in the opinion of the Judge the plaintiff may not succeed cannot be a ground for rejection of the plaint. In the present case, the averments made in the plaint, as has been noticed by us, do disclose the cause of action and, therefore, the High Court has rightly said that the powers under Order VII Rule 11 of the Code cannot be exercised for rejection of the suit filed by the plaintiff-appellants.

12. Similarly, the Court could not have taken the aid of Section 10 of the Code for stay of the suit as there is no previously instituted suit pending in a competent court between the parties raising directly and substantially the same issues as raised in the present suit.

In Kamala and Others (supra), this Court at paragraphs 15, 16 and 18 held as follows:

15. Order VII Rule 11(d) of the Code has limited application. It must be shown that the suit is barred under any law. Such a conclusion must be drawn from the averments made in the plaint. Different clauses in Order VII Rule 11, in our opinion, should not be mixed up. Whereas in a given case, an application for rejection of the plaint may be filed on more than one ground specified in various sub-clauses thereof, a clear finding to that effect must be arrived at. What would

be relevant for invoking clause (d) of Order VII Rule 11 of the Code is the averments made in the plaint. For that purpose, there cannot be any addition or subtraction. Absence of jurisdiction on the part of a Court can be invoked at different stages and under different provisions of the Code. Order VII Rule 11 of the Code is one, Order XIV Rule 2 is another.

16. For the purpose of invoking Order VII Rule 11(d) of the Code, no amount of evidence can be looked into. The issues on merit of the matter which may arise between the parties would not be within the realm of the Court at that stage. All issues shall not be the subject-matter of an order under the said provision.

18. It is one thing to say that the averments made in the plaint on their face discloses no cause of action, but it is another thing to say that although the same discloses a cause of action, the same is barred by a law.

In *Venture Global Engineering (supra)*, this Court at paragraph 13 held as follows:

13. It is settled law that the Courts while exercising their jurisdiction, provided under Order VII Rule 11 of the Code of Civil Procedure, no other material can be looked into, except the averments of the plaint and the material documents supplied along with the plaint. In other words, the plaint and the material annexed thereto constitute the plaint and, as such, the plaint along has to be examined by the Court as to whether there is any justification to interfere with the same exercising the jurisdiction vested with the civil Court under Order VII Rule 11 of the Code of Civil Procedure. Therefore, we are restraining ourselves from entering into other areas of controversy, which are incidentally referred to by the learned Counsel appearing on behalf of the plaintiff.

In *Kammila Damodar Rao (supra)*, this Court at paragraphs 6 and 7 held as follows:

6. Basically, the rejection of plaint under Order VII Rule 11 C.P.C., is a task to be undertaken by the Court, if it is found that the plaint suffers from any of the infirmities indicated therein. However, it is also open to the defendants in a suit to file an application for rejection of the plaint, duly indicating the grounds therefor. Such an exercise must be undertaken at the threshold, before any major steps are taken in the suit. In the instant case, the petitioner had filed written statement making his stand clear on the merits of the matter. On the basis of the plaint and the written statement, the trial Court had framed issues and is proceeding with the matter.

7. Even assuming that Order VII does not prescribe any limitation for filing of an application for rejection of plaint, and that such an exercise can be undertaken even at a later stage, it can be resorted to, only when it is established that the plaint was patently defective and such defect could not be noticed at the initial stages. It hardly needs any emphasis that rejection of plaint must be on the grounds specified in Rule 11 of Order VII CPC and benefit of doubt, if any, must be extended to the plaintiff. The reason is that the power of a civil Court to

adjudicate civil disputes is unfettered, except where such jurisdiction is specifically taken away, by law.

In *Gadiyaram Padmavathi* (supra), this Court at paragraphs 19, 20 and 32 held as follows:

19. It is also well settled law that rejection of a suit can be sought for at any time during the pendency of the suit and no material except the plaint averments and the supporting documents can be gone into while exercising the power under Order VII, Rule 11 C.P.C.

20. Hence, it is equally necessary while exercising such drastic and exceptional power the Court should also be cautious in scrutinizing the facts and circumstances culled out only from the plaint and the documents annexed thereto.

32. It is settled law that for the purpose of adjudication of an interlocutory application filed under Order VII, Rule 11 C.P.C., the plaint averments and the documents filed along with it alone have to be taken into consideration and hence, in view of the said settled proposition, treating the plaint and the order of the Division bench of this court in C.M.P. No. 1912 of 2000 in A.S. No. 2745 of 1999, dated 1-8-2000 as one document, we are referring to the facts narrated in the said order.

In *Thanamki Prasad* (supra), this Court at paragraph 3 held as follows:

3. Order VII Rule 11 of Code of Civil Procedure, 1908 (CPC) enables the Court to reject a plaint when the plaint does not disclose cause of action, when the relief claimed is not properly valued when the suit is barred by any law and when certain provisions are not complied with. The rejection of the plaint by a Court does not, however, bar a fresh suit. Be that as it is, though Rule 11 of Order VII of CPC is not exhaustive at the stage of scrutiny of the case, no Court can appreciate the merits of the case and reject the plaint on the ground that the case of the plaintiff is not well-founded or devoid of any merit. In a suit for specific performance, as per Section 4 of Specific Relief Act, 1963 (the Act), the provisions of the said Act alone are applicable. If there are any defects in the plaint for specific performance of agreement of sale, unless such defects go to the root of the matter, the plaint cannot be rejected at the stage of scrutiny. The Court cannot lose sight of the right of a seller or purchaser of the immovable property as conferred by the agreement of sale, the provisions of Transfer of Property Act, 1882 (TP Act) and the provisions of the Act. u/s 13 of the Act, it is always open to the plaintiff/vendee to pray the Court to conduct enquiry into the title/defective title of the vendor and then give a direction to the vendors to perform their part of the contract after accepting the balance of sale consideration, if any. In rejecting the plaint, the learned District Judge lost sight of the provisions of Section 55 of TP Act and Section 13 of the Act and also Order VII Rule 11 of CPC. By reason of the rejection, the petitioner is now deprived of his valuable right. All the flaws pointed out by the learned District Judge-some of

which are curable by the plaintiff himself; at best can be a defence in the written statement. For these reasons, this Court is of considered opinion that this is a fit case where the power of this Court under Article 227 of Constitution of India should be exercised in favour of the petitioner.

In Sri Laxmi Co-Operative Housing Society Ltd. (supra), this Court at paragraphs 15 and 24 held as follows:

15. The eventual conspectus from a concatenation of the judgments referred to hereinabove shows thus : Whether a plaint discloses a cause of action or not is essentially a question of fact. In order to decide the question as to whether the plaint shall be rejected under clauses (a) and (d) of Order 7, Rule 11 of the Code, the averments made inter alia in the plaint and the documents annexed therewith if any alone shall be taken into consideration. The plea taken in the written statement and the probable defence which the defendant might raise on merits are not germane for consideration. In the process, the plaint in its entirety must be considered to be correct. The test is as to whether if the averments in the plaint are taken as correct in entirety, a decree could be passed. So long as the claim as made in the plaint discloses some cause of action or raises some questions fit to be decided by a Judge, the mere fact that the case is vague and is not likely to succeed, is no ground for striking it out. The Court shall not enter upon a trial of the issues affecting the merits of the claim made inter alia in the plaint. The purported failure of the pleadings to disclose a cause of action is distinct from the absence of full particulars. The contentions issues which shall have to be decided on the evidence adduced on either side cannot be decided at the threshold for rejecting the plaint or not, unless on the allegations made in the plaint itself the Court can arrive at a conclusion that the suit is clearly barred by any law, be it a question of a limitation or any other question. A distinction shall be drawn between a case where the plaint itself does not disclose a cause of action and a case where after considering the entire material on record a conclusion can be arrived at that there is no cause of action. If the plaint is asked to be rejected at the threshold, the former case is germane, but not the latter. The Court can exercise the power to reject the plaint at any stage of the suit. The Court should guard itself from any camouflage or trick in the pleading sought to be made so as to create a cause of action. Where the litigation is utterly vexatious and abuse of the process of the Court, can be yet another ground to reject the plaint.

24. As can be seen from the plaint, the reliefs sought for are three fold. The first relief is to direct the defendants to cooperate with the plaintiff by strictly adhering to the terms and conditions of the suit agreement and by supporting the applications filed by the plaintiff before the Government or other authorities for grant of exemption. The basis for such relief seems to be the alleged non-co-operation as set forth in Para 14 of the plaint when the plaintiff wanted to avail the benefit of two G.Os. passed on 29-7-2002. In my considered view, this is an independent relief by itself apart from the second relief being specific relief

sought for in the plaint for the performance of the suit agreement of sale. The third relief being the relief of perpetual injunction to restrain the defendants from transferring the property by any means and from changing the nature of the property. Even this relief could independently be maintained basing upon the suit agreement of sale. The facts thus set forth inter alia in the plaint clearly show the necessary cause of action on a prima facie consideration.

In *M.A.E. Kumar Krishna Varma (supra)*, this Court at paragraph 17 held as follows:

17. The petitioner/first defendant who seeks rejection of the plaint has, therefore, to establish that the plaint does not disclose a cause of action or that from the averments in the plaint it appears that the suit is barred by any law. There is vast difference between a case where there is no cause of action and the one where the plaint does not disclose a cause of action. Clause (a) is not applicable to a case where there is no cause of action. It would be applicable only when the defendant is able to show that the plaint does not disclose a cause of action. It is not the absence of cause of action for the suit that entails rejection, but the absence of disclosure of cause of action. Before seeking to establish that the plaint does not disclose cause of action, the first defendant has to plead the same at the first instance. The onus is on the defendant to establish that the plaint does not disclose a cause of action. A perusal of either the written statement or the affidavit filed in support of I.A. No. 794 of 2007 does not disclose that any specific plea is raised by the petitioner/first defendant that the plaint does not disclose the cause of action. On the other hand, in the written statement and also in the affidavit, the first defendant purported to plead that there is no cause of action for the suit. In para 7 of the affidavit, it is specifically asserted that in terms of Order VII Rule 11(a) CPC, there is no cause of action whatsoever for maintainability of the present suit. It is further averred therein that the suit, as framed and filed by the plaintiff, is not maintainable and is liable to be rejected as de void of any cause of action. The question as to whether or not there is cause of action for the suit, does not arise for consideration at this stage. The decision on the question as to the existence or otherwise of the cause of action depends not merely on the averments in the plaint, but also on the pleadings in the written statement and evidence. The said question is, therefore, to be decided only at a later stage, but not at the threshold under Order VII Rule 11 CPC. What is required to be established for rejection of plaint under Order VII Rule 11(a) CPC is non-disclosure of cause of action in the plaint. In order to ascertain whether the plaint discloses a cause of action or not, the averments in the plaint have to be read as a whole and also in a meaningful manner. In *State of Orissa Vs. Klockner and Company and Others*, , the Apex Court held that rejection of the plaint is not proper when the Court does not maintain distinction between the plea that there was no cause of action for the suit and plea that the plaint does not disclose cause of action. In the above case it was found by the High Court that the case of the applicant therein was that the plaintiff has no cause of action to file the suit and it was not specifically pleaded by the applicant

that the plaint does not disclose any cause of action. It was further held as under:

From the averments in the plaint, it is clear that the plaintiff has pleaded a cause of action for filing the suit seeking the reliefs stated in it. That is not to say that the plaintiff has cause of action to file the suit for the reliefs sought that question is to be determined on the basis of materials (other than the plaint), which may be produced by the parties at appropriate stage in the suit. For the limited purpose of determining the question whether the suit is to be wiped out under Order 7 Rule 11(1) or not the averments in the plaint are only to be looked into. The position noted above is also clear from the petition filed by defendant No. 1 under Order 7 Rule 11 in which the thrust of the case pleaded is that on the stipulation in the agreement of 20.4.1982 the plaintiff is not entitled to file a suit seeking any of the reliefs stated in the plaint".

In *Agina Chandramouli* (supra), this Court at paragraph 10 held as follows:

10. A perusal of Order 7 Rule 11 CPC makes it clear that the relevant facts which need to be looked into for deciding an application thereunder are the averments in the plaint. The trial Court can exercise the power under Order 7 Rule 11 CPC at any stage of the suit-before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of deciding an application under clauses (a) and (d) of Rule 11 of Order 7 CPC, the averments in the plaint are germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage.

In *Vadla Narasimhaiah and Others* (supra), this Court at paragraph 4 held as follows:

4. Apparently, the petitioners herein filed the written statement and are contesting the suit. It is not as though the contention that the plaint has to be rejected is taken at the threshold, it was only at a stage when the trial was in progress, the petitioners have come forward with the present application requesting the trial Court to reject the plaint. Of course rejection of plaint can be done at any stage of the proceedings, but it does not mean that at a stage when the evidence is coming to an end. Further, the grounds on which the plaint has to be rejected are dealt with under Order VII Rule 11 CPC, and as per the said provision of law, it is only when the plaint does not disclose a cause of action or the relief claimed is under valued or the suit itself is barred by any law.

In *Dantala Praveen* (supra), this Court at paragraph 5 held as follows:

5.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.

6. 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.

In V. Narasimha Reddy and Others (supra), this Court at paragraphs 7 and 8 held as follows:

7. Whether an exercise pertaining to rejection of a plaint is undertaken by the Court on its own accord, or at the instance of the defendants, the verification shall be only with reference to the contents of the plaint. In other words, it is only when the contents of the plaint on their face value and without the aid of any external material disclose that the suit is barred by any law or by limitation, or if it does not disclose any cause of action, that it can be rejected. Reference in this context may be made to the judgment of the Supreme Court, in P.R. Periakaruppan Vs. Chola Chits and Finance (P) Ltd., . It was held in paragraph 19, as under:

There cannot be any compartmentalization, dissection, segregation and inversions of the language of various paragraphs in the plaint. If such a course is adopted it would run counter to the cardinal canon of interpretation according to which a pleading has to be read as a whole to ascertain its true import. It is not permissible to cull out a sentence or a passage and to read it out of the context in isolation. Although it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction of words or change of its apparent grammatical sense. The intention of the party concerned is to be gathered primarily from the tenor and terms of his pleadings taken as a whole. At the same time it should be borne in mind that no pedantic approach should be adopted to defeat justice on hair-splitting technicalities.

The same view was taken by the Hon''ble Supreme Court in many judgments earlier and subsequent thereto.

8. The fact that a different version from what is stated in the plaint is possible,

and the same would render the suit not maintainable; cannot be a ground to reject the plaint. At the most such contents can constitute the basis for framing of independent issues. In a given case, the defendant can request the Court to decide such precise question as preliminary issue, and decide the same at the threshold, without entering the arena of merits. Since rejection of a plaint would entail in virtual denial of entry to a citizen into a civil Court, the power under Rule 11 of Order VII is required to be exercised carefully and cautiously.

15. Coming to the order impugned in the present Civil Revision Petition, the learned District Judge meticulously and thoroughly considered all the contentions raised by the defendant/petitioner herein in the affidavit filed in support of the petition filed under Order VII Rule 11 of the Code of Civil Procedure. As rightly observed by the learned District Judge, the schedule of property annexed to the plaint manifestly indicates the extent and location of the property. The learned District Judge also dealt with the contention with regard to the jurisdiction raised by the petitioner and categorically observed that as the property is situated within the limits of Narsingi Village, Chegunta Mandl, Medak District, the Court has jurisdiction to try the case. The Court below also dealt with the aspect of cause of action raised by the petitioner herein. The findings of the Court below on the parameters of Order VII Rule 11 application at paragraph 14 of the impugned order are also in consonance with the said provisions of Law. The Court below further recorded a finding with regard to the plea of variation of properties in the agreement of sale and the suit schedule by holding that the same cannot be decided at this point of time. With regard to the principle laid down by the Apex Court in *Sopan Sukhdeo Sable* (supra) there cannot be any other opinion and in view of the facts and circumstances of the present case, the principle laid down in the said Judgment would not render any help to the defendant/petitioner herein. This Court does not find any infirmity nor any perversity in the impugned order. In view of the above mentioned facts and circumstances and the legal position and in view of the principles laid down in the above referred Judgments (Supra 2 to 12), this Court is of the considered opinion that there are absolutely no merits in the present Civil Revision Petition and the petitioner has failed in making out a case, warranting any interference of this Court under Article 227 of the Constitution of India. For the reasons recorded supra and having regard to the settled propositions of law as referred to above and keeping in view the provisions of Order VII Rule 11 of the Code of Civil Procedure, this Court is of the view that there are no merits in the C.R.P. and the present Civil Revision Petition is liable to be dismissed and is accordingly dismissed. However, it is needless to observe that the Court below shall dispose of the main suit as expeditiously as possible without being influenced by the observations made either in the impugned order or in the present order. No order as to costs.