

(2012) 01 AP CK 0084

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 4582 of 2011

R. Raghunatha Reddy and R. Chakrapani Reddy

APPELLANT

Vs

R. Rama Krishna Reddy

RESPONDENT

Date of Decision : 13-01-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 7 Rule 1, Order 7 Rule 11, 151

Citation : (2012) 3 ALD 1 : (2012) 3 ALT 656

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

Bench : Single Bench

Advocate : K.G. Krishna Murthy, for the Appellant; S.V. Bhatt, for the Respondent

Final Decision : Dismissed

Judgement

C.V. Nagarjuna Reddy

1. This Civil Revision Petition arises out of order dated 19-8-2011 in I.A.No. 52/2011 in O.S.No. 5/2011 on the file of the learned I Additional District Judge, Chittoor. The petitioners are defendants in the above noted suit filed by the respondent for declaration of title and permanent injunction. The petitioners filed I.A.No. 52/2011 under Order VII Rule 11(a) and Section 151 of the Code of Civil Procedure, 1908 (for short "the Code") seeking rejection of the plaint on the ground that the same does not disclose cause of action. The lower Court rejected the said application. Hence, the petitioners filed the present Civil Revision Petition.

2. At the hearing, Sri K.G. Krishna Murthy, learned counsel appearing for the petitioners, submitted that in the plaint, the petitioners have not disclosed which are ancestral properties and which are self-acquired properties and that in the absence of such details, the plaint has not satisfied the requirements of Order VII Rule 1 (e) and also sub-rule 11(a) thereof. In support of his submission, the learned counsel placed reliance on the Judgment of the Supreme Court in I.T.C.

3. Order VII Rule 1 of the Code prescribes the particulars to be contained in a plaint. These particulars include the facts constituting cause of action and when it arose. Under Rule 11 of Order VII, the plaint shall be rejected, inter alia, where it does not disclose a cause of action. In the present case, a perusal of the plaint shows that the respondent/plaintiff pleaded that the plaint schedule properties are ancestral as well as self-acquired properties. It is also averred that the Additional Revenue Divisional Officer (LR), Madanapalle, by his order dated 16-3-1976 declared the plaint schedule properties and other properties as the respondent's ancestral and self-acquired ones. Paragraph-4 of the plaint also contains the details of certain properties and the extents and refers to a registered exchange deed dated 21-6-1985. In paragraph-7, it is stated that on 5-11-2011, 6-1-2011 and 23-1-2011, the petitioners/defendants along with their men repeatedly trespassed into the plaint schedule items 1 to 3 and objected the respondent/plaintiff and his coolies when they were spraying insecticides in the mango garden. Accordingly, in paragraph-8 of the plaint, the respondent pleaded that on the above mentioned details and also on the date when legal notice was issued on 24-1-2011, the cause of action arose.

4. In order to attract the provisions of Order VII Rule 11 (a) of the Code for rejection of the plaint, the defendants shall satisfy the Court that the plaint does not disclose cause of action at all. In the present case, the respondent/plaintiff sought for both declaration of title and perpetual injunction. Even though paragraph-8 of the plaint relating to cause of action has not included the averment relating to title, the said paragraph contains sufficient pleadings in respect of permanent injunction.

5. As rightly submitted by Sri S.V. Bhatt, learned counsel for the respondent, to know whether the plaint discloses cause of action or not, the same needs to be read as a whole. As noted above, the respondent referred to his title in more than one paragraph. He has also claimed to have filed a certified copy of order of the Land Reforms Tribunal relating to ancestral as well as the self-acquired properties. In my opinion, mere absence of detailed particulars relating to the nature of the properties cannot be treated as the plaint not disclosing cause of action. If the plaintiff lays a foundation relating to his title, he can always substantiate the same by adducing oral and documentary evidence. Such an exercise will be undertaken only during the trial. As rejection of the plaint at the very inception leads to drastic result of non-suiting the plaintiff, Rule 11 of Order VII of the Code needs to be strictly construed. Except in cases where it fails to disclose any cause of action, the plaint cannot be rejected under clause (a) of Rule 11 of Order VII. As noted above, the plaint sufficiently discloses cause of action and the averments raise triable issues. The plaint therefore cannot be rejected without the suit being tried. The Judgment of the Supreme Court in I.T.C. Limited (1-supra) turned on its own facts and therefore the same is of no help to the petitioners.

6. For the above mentioned reasons, the Civil Revision Petition is dismissed. As a sequel, C.R.P.M.P.No. 6506/2011 is disposed of as infructuous.