

(2010) 08 AP CK 0024

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 3957 of 2009

Vadla Narasimhaiah and Others

APPELLANT

Vs

Vadla Kondaiah and Others

RESPONDENT

Date of Decision : 13-08-2010

Acts Referred:

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

Citation : AIR 2011 AP 14 : (2010) 6 ALD 380

Hon'ble Judges : Gopala Krishna Tamada, J

Bench : Single Bench

Advocate : G. Madhusudhan Reddy, for the Appellant; T.V. Rajeevan, for Respondents 1 to 3, for the Respondent

Final Decision : Dismissed

Judgement

Gopala Krishna Tamada, J.—The Respondent Nos. 1 to 3 herein instituted a suit in O.S. No. 24 of 2008 on the file of the Senior Civil Judge, Wanaparthy, for correction of entries in the revenue records. In that suit, the official Respondents 4 and 5 herein are shown as Defendants 6 and 7. The Petitioners, who are Defendants 1 to 5, filed written statement. On the basis of which, issues have been settled. When the trial is in progress and some witnesses have been examined, an application in I.A. No. 176 of 2009 in O.S. No. 24 of 2008 was filed by the Petitioners under Order VII Rule 11(a) and (d) of CPC stating that the plaint has to be rejected. The trial Court having heard both the counsel appearing on either side, vide its order dated 09-04-2009, while rejecting the contentions advanced by the learned Counsel for the Defendants, passed an order directing the Plaintiffs to delete D-6 and D-7 from the array of the suit. The order is questioned by the Defendants 1 to 5 in this revision petition.

2. Sri G. Madhusudhan Reddy, learned Counsel for the Petitioners, has mainly contended that the Respondents 1 to 3 filed the suit suppressing so many facts, and in fact, there was prior litigation between the parties i.e. the Petitioners herein and Respondents 1 to 3, and the revenue authorities have already decided

the litigation. But suppressing those things, the present suit has been filed, as such, the trial Court shall reject the plaint.

3. Heard both the counsel and perused the material placed on record.

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.

5. In my considered view, the present application filed by the Petitioners-D-1 to D-5 does not satisfy any of the provisions mentioned above. May be there was a litigation between the parties and the same was suppressed, but in my considered opinion, that cannot be a ground to summarily reject the plaint stating that the same is not maintainable. It may, at best, be good ground for the Defendants to get the suit dismissed.

6. Hence, I see no merits in this revision, and the same is accordingly dismissed.