

**Ranjeet Mal Vs. Poonam Chand and anr.**

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**Court :** Rajasthan

**Decided On :** Jul-21-1982

**Reported in :** AIR1983Raj1; 1982()WLN446

**Judge :** Dwarka Prasad, J.

**Acts :** [Code of Civil Procedure \(CPC\), 1908](#) - Order 7, Rule 11

**Appeal No. :** Civil Revn. Petn. No. 201 of 1982

**Appellant :** Ranjeet Mal

**Respondent :** Poonam Chand and anr.

**Advocate for Def. :** L.R. Mehta, Adv.

**Advocate for Pet/Ap. :** G.N. Gaur, Adv.

**Disposition :** Petition dismissed

**Judgement :**

ORDER

Dwarka Prasad, J.

1. In this revision petition, it is urged by the learned counsel for the petitioner that the trial Court was in error in refusing to reject the plaint under the provisions of Order VII, Rule 11. C. P. C.

2. It is not disputed that in para 2 of the plaint the plaintiff had stated that the land in dispute belonged to him and that he had sub-divided a large chunk of land purchased by him with the permission of the Urban Improvement Trust. Jodhpur and sold portions of such land as separate plots to various persons. According to the plaintiff, the land in dispute, which remained after sale of plots, belonged to him. Hence a suit for possession and mesne profits was filed by him against the defendant on the alleged ground that he has made unlawful encroachment upon the land in dispute.

3. Learned counsel for the defendant petitioner urges that the plaint should not be read in a formal manner but it should be read along with the law on the subject and that a perusal of the provisions of the Rajasthan Urban Areas (Sub-Division, Reconstitution and Improvement of Plots) Rules, 1975 would make it clear that the open spaces left after sub-division vested in the Urban Improvement Trust and that in view of the said provisions of law, the plaint did not disclose any cause of action for

filing the suit, because the correct legal position was that the land in dispute did not belong to the plaintiff. Learned counsel placed reliance on the decision of a learned single Judge of the Delhi High Court in *Shakti Sugars Ltd. v. Union of India*, AIR 1981 Delhi 212. In that case the question was as to whether the State Trading Corporation was the agent of the Central Government, by reason of which the latter was liable for breach of contract committed by the former. It was urged on behalf of the Union of India that the plaint did not disclose any cause of action against the Union of India and the suit should be dismissed against it. The learned single Judge referred to the decision of their Lordships of the Supreme Court in *T. Arivandandam v. Satyapal*, AIR 1977 SC 2421 and held that it is to be seen if 'actually according to law' the contention contained in the plaint that the defendant was an agent of the Union of India was justified or not and mere allegation of the plaintiff was not enough. With great respect to the learned Judge, I am unable to agree with the view taken in *Shakti Sugar's* case, because at the stage of deciding the question as to whether the plaint should be rejected under Clause (a) of Order VII, Rule 11, C. P. C. the Court is required to find out from the pleadings of the plaintiff as to whether any cause of action was disclosed from the allegations contained in the plaint. If a legal question is raised by the defendant in his written statement disputing the claim of the plaintiff and if the same is to be decided at that stage, then it would be pre-judging the matter, which should form the subject matter of an issue, as a proposition of law asserted by one party and denied by the other. With utmost respect to the learned Judge, I would humbly say that their Lordships of the Supreme Court in *Arivandandam's* case laid down that there should be a meaningful reading of the plaint and not a formal reading thereof. What their Lordships desired to emphasise in that case was that the plaintiff merely by a camouflage cannot maintain a suit, if according to the substance of the allegations made in the plaint no cause of action worth the name was disclosed and fruitless litigation should not be permitted. The 'meaningful reading of the plaint', in my humble view, would not amount to probing into the allegations made in the plaint on the basis of the pleas raised by the defendant in his defence and then finally deciding the questions of law which are in dispute between the parties, Whether the plaintiff's case is 'actually' maintainable according to law or not, cannot fall within the ambit of 'a meaningful reading of the plaint'.

4. In *Arivandandam's* case their Lordships of the Supreme Court observed as under (at page 2423) :-

'If on a meaningful-Dot formal-reading of the plaint it is manifestly vexatious, and merit-less, in the sense of not disclosing a clear right to sue, he should exercise his power under Order VII, Rule 11, C. P. C. taking care to see that the ground mentioned therein is fulfilled. And, if clear (clever) drafting has created the illusion of a cause of action, nip it in the bud at the first hearing by examining the Party searchingry under Order X, C. P. C.'

The observations of their Lordships in the aforesaid case clearly bring out the scope of the provisions of Clause (1) of Order VII, Rule 11, C. P. C. and the question as to whether the plaint discloses a clear right to sue or not must be decided on the basis of the substance of the allegations made in the plaint or by examining the plaintiff under Order X, C. P. C. The Court should not be led away merely by the manner or form in which the plaint is drafted and it should bestow its attention to the substance of the allegations made therein and it is on this account that their Lordships of the Supreme Court observed that there should be meaningful and not a formal reading of the plaint There is nothing in the observations of their Lordships of the Supreme

Court in Arivandandam's case to the effect that all questions of law raised by the defendant about the maintainability of the suit should be considered at the stage of deciding the question as to whether the plaint disclosed a cause of action. All legal questions raised by either party and denied by the other should be made subject matter of issues. It may be that the legal issues may be tried by the Court before proceeding with the trial of issues, in respect of which evidence was to be recorded. But at the initial stage, of deciding as to whether the suit should be rejected under any one of the clauses of Order VII, Rule 11, C. P. C. or not, it does not appear to be the intention of the law makers that the questions as to whether 'actually' according to law the suit was maintainable or not should be decided at that stage. Such questions should be decided after thorough consideration of legal issues involved in the case. What is to be determined by the Court at the stage of deciding as to whether the plaint discloses any cause of action or not, is to find out from the allegations of the plaint itself as to whether a bogus, wholly vexatious or frivolous litigation was sought to be initiated under the garb of ingenious drafting of the plaint and to guard against the mischief of a litigant misusing the process of the Court, by entering into a false litigation, merely for the purpose of harassing the other party and obtaining undue advantage of the process of the Court by adopting tactics and in starting sham and shady actions. Their Lordships in Arinvandandam's case expressed themselves strongly against unrighteous chain litigation leading to ex parte injunction orders which tended to give rise to gamble in litigation into easy Courts. It was also observed that a Judge should not succumb to ex parte pressure in unmerited cases as it would tend to devolve the judicial process. But their Lordships did not intend to enlarge the scope of the provisions of Order. VII. Rule 11, C. P. C. so as to authorise the Court to decide at that stage all questions of law whose determination was necessary in the suit, to conclude the 'actual' right or claim of one party or the other.

5. In the present case the learned lower Court appears to be right in refusing to reject the plaint at this stage under Order 7, Rule 11, C. P. C. I find myself in agreement with the order passed by the learned District Judge, Jodhpur. The revision petition has no force and the same is dismissed.

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