

SANDEEP Vs. THE DELHI POLLUTION CONTROL
COMMITTEE

08.10.2024

Present : None.

ORDER ON APPLICATION U/O VII RULE 11 CPC

1. Vide this order I shall decide the application U/o VII Rule 11 CPC moved on behalf of the defendant.
2. Coming to the facts of the present case, it is submitted by the plaintiffs that the plaintiffs along with the husband of defendant no.2 are the joint owners of the property bearing no. 7/165, Jawahar Mohalla, Farsh Bazaar, Shahdara, Delhi – 110032. That the defendant no.2 is running a business of dry cleaning factory on the ground floor of the suit property. That the property is situated in the residential colony and the factory is causing not only health hazards to occupants, but also causes air pollution resulting from the emission of poisonous gases. Let the plaintiffs had filed a complaint in the office of defendant no.1 on 05.09.2022, but no action was taken, hence the present suit.
3. The main grounds raised in the application for rejection of plaint are that there is no cause of action to file the present suit as the contention of the plaintiffs is that the defendant no.2 is running a dry cleaning factory in which chemical and hazardous substances are being used causing harm to the family but the plaintiffs have not filed any relevant

medicals documents and further the defendant no.2 has a valid licence for then same. That the present suit has been filed only to harass the defendant no.2.

4. The plaintiffs have denied all the averments made by the defendant in his application.
5. I have heard the arguments and perused the record.
6. However, before delving into the merits of the present application, I would like to briefly recapitulate the law pertaining to rejection of plaints. It is an undisputed canon of codified civil jurisprudence that the legislative intent behind the provisions of Order VII Rule 11 CPC, is to bring the finality to a civil *lis* before the court at the very threshold, provided, the grounds stated therein for rejection of a plaint are satisfied. The object of the provision of Order VII Rule 11 CPC is to keep out irresponsible law suits. In a way, it is to be used as a handy tool by the Courts to segregate the grain from the chaff, on a purely *prima facie* examination of the statements made in the plaint. The purpose of the said exercise is to ensure that the plaint which is on the face of it vexatious and meritless and does not disclose a clear subsisting right to sue, is required to be thrown out at the threshold. The whole purpose of conferment of such powers is to ensure that a litigation which is meaningless should not be permitted to occupy the time of the Court and vex the mind of the defendant. Further, it is a settled rule of law that the plea of rejection of plaint is founded on the "PLEA OF DEMURRER". A person raising such plea in law has to take the facts as stated by the opponent as correct. Despite

tentative admission of such correctness, if the plaint does not disclose a complete or even partial cause of action or the relief claimed is barred by law, then the plaint is liable to be rejected under the provisions of Order VII Rule 11 of the Code of Civil Procedure. The defense raised by the defendants in his written statement or the documents filed along with it certainly fall beyond the zone of consideration, where an application for rejection of a plaint is being considered by the Court. The language of the rules does not admit any scope for doubt that the written statement filed by the defendant cannot be referred or relied upon by the applicants for decision of such application. However, the power to reject the plaint must be exercised only if the court comes to the conclusion that even if all the allegations in the plaint if taken to be proved, the plaintiff/Applicant would not be entitled to any relief whatsoever.

7. After perusing the material on record and considering the arguments of both the sides, I find that disputed questions of facts are involved in the present case and rejection of plaint on a purely prima facie examination of plaint would not be justified. The question whether the defendant no.2 has a valid license to run the dry cleaning factory or whether the Plaintiff's family has suffered any health hazard will be proved only during the trial. Further, the defence raised by the defendant in his application or the documents filed along with it, certainly fall beyond the zone of consideration, where an application for rejection of a plaint is being considered by the Court. The language of

the rules thus does not admit any scope for doubt that the written statement filed by the defendant cannot be referred or relied upon by the applicants for decision of such application.

8. In view of the aforesaid facts and circumstances, **application under Order VII Rule 11 CPC stands dismissed.**
9. Now, the matter is pending for arguments on application u/o VI Rule 17 CPC. Further, an application u/o I Rule 10 CPC has been moved by defendant no. 1 seeking deletion from array of parties. Copy be supplied today itself against receipt.
10. Let reply, if any, be filed on NDOH with advance copy to opposite side against receipt.
11. Put up for reply / arguments on above mentioned applications on **19.11.2024.**

(Sahil Gupta)
CJ-07(C)/THC/Delhi/08.10.2024