

Reg. Civil Suit No.30/2016

Dwarkabai Ingale Vs.

Keshav Chandan & Others

(CNR MHAK02-000158-2016)

ORDER BELOW Exh.08

(Passed on : 24/08/2022)

The defendant no.2 files this application for rejection of plaint as per Order VII Rule 11 of The Code of Civil Procedure. The suit is for permanent and mandatory injunction. The relief is sought on the basis of alleged agreement dt.21.11.2006 with defendant no.1. There is no privity of contract between the plaintiff and defendant no.2. Apart from this the plaintiff claims relief on the basis of agreement dt.21.11.2006, therefore, the suit is time barred. The plaintiff has not paid proper court fee stamp on this count, rejection of plaint is sought.

2. The plaintiff submits reply stating that there is sufficient pleading in plaint para no.4 which discloses that how plaintiff had been paying amount for clearance for all dues in connection with the suit property. The last payment was made on 08.10.2010 and thereafter a certificate from the defendant no.3 was remanded, however the defendant no.1 and 2 refused to sign the documents. The plaintiff is ready to pay requisite court fee stamp. All this would show that the suit is not time barred, therefore the application is sought to be rejected.

3. Heard the learned Advocate for defendant no.2 Shri. S.G. Santani and learned Advocate for the plaintiff Shri. R.U. Khadse.

4. The averments in the plaint need to be seen. The plaintiff seeks relief in respect of his possession in the suit property on basis of agreements. The defendant no.3 is secretary, Amravati Housing and Area Development Board. The suit property is a house which is allocated for low income group. It was allotted to defendant no.2 and thereafter the defendant no.1 agreed to pay the price and executed one receipt in the year 2004. Thereafter on 21.11.2006 the defendant no.1 executed one sale receipt in favour of the present plaintiff. The consideration of Rs.4,05,000/- is shown in the receipt. The plaintiff is liable to pay requisite stamp duty. Today the learned Advocate for the plaintiff submits the pursis stating that the plaintiff would comply with deficit court fee stamp objection on next date. The objection regarding the limitation cannot be decided at this stage as the pleadings in para no.4 state that the plaintiff had been paying certain amounts time to time towards payment in pursuance of purchase receipt. The legality and validity of transaction under caption of purchase receipt cannot be determined at initial stage. Therefore, the plaint cannot be rejected without trial. Accordingly, application is rejected.

sd/-

[K.B. Chougule]

Joint Civil Judge Senior Division,
Akola.

Dt/- 24/08/2022.

* * *

CERTIFICATE

I affirm that, the contents of this PDF are verbatim as per original order.

Name of Stenographer	: Sau. B.S. Pardhi
Court's Name	: Joint Civil Judge Sr. Dn., Akola.
Date of dictation.	: 24-08-2022.
Signed by Presiding Officer on	: 24-08-2022
Uploaded on	: 24-08-2022

