



2025:DHC:3427



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 27th January, 2025**Pronounced on: 08th May, 2025**

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CM(M) 147/2024 & CM APPL. 4557/2024 (Stay)

GURMEET SINGH SACHDEVAPetitioner

Through: Mr. R. K. Trakru, Adv

versus

SKYWAYS AIR SERVICES PVT. LTDRespondent

Through: Mr. Kamal Gupta & Mr. Neeraj
Gupta, Advs.**CORAM:****HON'BLE MR. JUSTICE RAVINDER DUDEJA****JUDGMENT****RAVINDER DUDEJA, J.**

1. The present petition has been filed Article 227 of the Constitution of India against the order dated 12.10.2023 (impugned order) passed by the court of learned District Judge, Commercial Court-03 (Central), Tis Hazari Courts, Delhi in CS (Comm.) No. 886/2020, tilted "*Skyways Air Services Pvt. Ltd. Vs. Gurmeet Singh Sachdeva*", whereby, the application under Order 7 Rule 11 of the Code of Civil Procedure, 1908 [**"Code"**] filed by the petitioner Gurmeet Singh Sachdeva was dismissed with cost of Rs. 5000/-.

2. Briefly stated, the facts of the present case are that respondent/plaintiff filed a Suit against the petitioner/defendant for recovery of sum of Rs. 21,28,478/- (Rs. 18,03,795/- as principal and Rs. 3,24,683/- as interest), alleging that petitioner took the logistic services of the



respondent and sent goods of his clients to foreign destinations through respondent by air but has failed to make the above said payment for the same, which is now outstanding against the petitioner.

3. Petitioner filed his Written Statement in the Suit. In his written statement, while contesting the claim of the respondent, petitioner also raised various preliminary legal objections against the maintainability of the suit. One such objection in the written statement was that the plaint was vague, ambiguous and lacked in material particulars regarding the claim and hence did not disclose a valid cause of action.

4. On 12.10.2023, petitioner filed an application under Order 7 Rule 11 of the Code, seeking rejection of the plaint for non-disclosure of valid cause of action, which came to be dismissed by the trial court vide impugned order of even date i.e. 12.10.2023.

5. Feeling aggrieved, petitioner has preferred the present petition. Learned counsel for the petitioner has submitted that the plaint lacks specific details as to what goods and how much goods were booked by the petitioner and sent by the respondent to foreign destinations through various airlines, when these goods were booked and dispatched and through which airlines the said goods were transported, what were the freight charges charged by the concerned airlines, how much was the GST or any tax or taxes, if any, how much was the service of remuneration charges for the respondent etc. It is submitted that except for giving the total amount for each consignment, there is no other detail in the plaint as to how and in what manner, the amount mentioned in the plaint has been calculated and arrived at and claimed by respondent. It is argued that the plaint is bereft of the necessary details about the claimed amount, and therefore in the absence of essential facts and details in the plaint regarding the claim of the



respondent, no valid cause of action has been disclosed in the plaint. Thus, plaint is liable to be rejected.

6. It is argued that the trial court has erroneously elaborated upon the cause of action para to return the finding that plaintiff has sufficiently elaborated upon the cause of action, giving rise to the filing of the suit in the plaint, which is sufficient to proceed with the matter and that the cause of action in the instant case involves a mixed question of law and facts and is not purely based on facts or law and it requires both legal and factual analysis for just adjudication.

7. Learned counsel further submits that even in the cause of action para, relied upon by the learned trial court, no necessary or requisite details have been given. It is argued that it is a settled law that for the purpose of deciding as to whether a plaint discloses a cause of action or not, only the averments in the plaint are to be considered and no other evidence, documents or written statements should be taken into consideration for the said purpose. Hence, the view taken by the learned trial court that cause of action is a mixed question of law and facts and requires both legal and factual analysis for just adjudication is contrary to law and a clear misinterpretation of law and hence liable to be set aside. In support of his submissions, learned counsel places reliance on the following judgments:-

- i) Saleem Bhai v/s State of Maharashtra, 2003 (1) SCC 557;
- ii) Raghwendra Sharan Singh V/s Ram Prasana Singh, 2020 (16) SCC 601;
- iii) Om Prakash Srivastava v/s Union of India, 2006 (6) SCC 207;
- iv) Rajasthan High Court Advocates Association v/s Union of India, AIR 2001 SC 416;
- v) Mayar (H.K.) Ltd. v/s Owners & Parties, 2006 (3) SCC 100;



- vi) Popat and Kotecha Property vs. State Bank of India Staff Association, 2005 (7) SCC 510;
- vii) H. D. Vashishta v/s Glaxo Laboratories, AIR 1979 SC 134;
- viii) Hari Gokal Jewellers v/s Satish Kapoor), 2006 (88) DRJ 837 (Delhi) (DB);
- ix) A.B.C Laminart Pvt. Ltd. V/s A. P. Agencies , 1989 (2) JT (SC) 38.

8. *Per contra*, learned counsel for the respondent has submitted that respondent has briefly summarized the facts in its plaint and filed all the documents like ledger account, sub-agency collection report, bills with airway bills, customer instructions and billing report etc. along with the plaint, running into 200 pages but the same have been deliberately not placed on record by the petitioner. Such documents contain the complete details. It is argued that while examining the application under Order 7 Rule 11 of the Code, the Court should not only look at the averments made in the plaint but also documents filed along with it. It is thus argued that the averments made and the documents placed on record clearly disclose the cause of action, and therefore, application under Order 7 Rule 11 of the Code has been rightly dismissed by the learned trial court.

9. The Court has considered the rival submissions made by the learned counsels. Before dealing with the rival submissions, it is apposite to refer to Order 7 Rule 11 of the Code. The provision empowers the Court to reject the plaint on specific grounds including lack of cause of action, under valuation of the suit, insufficient



stamping etc. This provision helps to reduce frivolous litigation and protects the defendants from unnecessary proceedings. Order 7 Rule 11 of the Code reads as under:-

“11. Rejection of plaint—

The plaint shall be rejected in the following cases:—

- (a) where it does not disclose a cause of action;
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;
- (c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;
- (d) where the suit appears from the statement in the plaint to be barred by any law;
- [(e) where it is not filed in duplicate;]
- [(f) where the plaintiff fails to comply with the provisions of Rule 9:]

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.”

10. It is a settled law that while dealing with an application under Order 7 Rule 11 of the Code, the averments made in the application are germane and the pleas taken by the defendant in the written statement are irrelevant at that stage. If on an entire reading of the plaint, it is found that the suit is vexatious in the sense that it does not disclose any right to sue, the Court should exercise the power under Order 7 Rule 11 of the Code.



11. What constitutes a cause of action has been succinctly explained by the Apex Court in the case of **Om Prakash Srivastava Vs. Union of India & Anr. (2006) 6 SCC 207**. The relevant paras of the judgment are extracted below:-

“9. By “cause of action” it is meant every fact, which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the Court. In other words, a bundle of facts, which it is necessary for the plaintiff to prove in order to succeed in the suit. (See *Bloom Dekor Ltd. v. Subhash Himatlal Desai* [(1994) 6 SCC 322] .)

10. In a generic and wide sense (as in Section 20 of the Civil Procedure Code, 1908) “cause of action” means every fact, which it is necessary to establish to support a right to obtain a judgment. (See *Sadanandan Bhadran v. Madhavan Sunil Kumar* [(1998) 6 SCC 514 : 1998 SCC (Cri) 1471] .)

11. It is settled law that “cause of action” consists of a bundle of facts, which give cause to enforce the legal inquiry for redress in a court of law. In other words, it is a bundle of facts, which taken with the law applicable to them, gives the plaintiff a right to claim relief against the defendant. It must include some act done by the defendant since in the absence of such an act no cause of action would possibly accrue or would arise. [See *South East Asia Shipping Co. Ltd. v. Nav Bharat Enterprises (P) Ltd.* [(1996) 3 SCC 443]]

12. The expression “cause of action” has acquired a judicially settled meaning. In the restricted sense “cause of action” means the circumstances forming the infraction of the right or the immediate occasion for the reaction. In the wider sense, it means the necessary conditions for the maintenance of the suit, including not only the infraction of the right, but also the infraction coupled with the right itself. Compendiously, as noted above, the expression means every fact, which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court. Every fact, which is necessary to be proved, as distinguished from every piece of evidence, which is necessary to prove each fact, comprises in “cause of action”. (See *Rajasthan High Court Advocates' Assn. v. Union of India* [(2001) 2 SCC 294] .)



13. The expression “cause of action” has sometimes been employed to convey the restricted idea of facts or circumstances which constitute either the infringement or the basis of a right and no more. In a wider and more comprehensive sense, it has been used to denote the whole bundle of material facts, which a plaintiff must prove in order to succeed. These are all those essential facts without the proof of which the plaintiff must fail in his suit. (See *Gurdit Singh v. Munsha Singh* [(1977) 1 SCC 791] .)

12. Learned counsel for the petitioner has placed reliance on number of judgments to argue that the plaint filed by the respondent in this case does not disclose any cause of action. There is no dispute with regard to the proposition of law laid down in the cited judgments. For the sake of brevity, I am referring to only one judgment in the case of **Madanuri Sri Rama Chandra Murthy Vs. Syed Jalal (2017) 13 Supreme Court Cases 174**, wherein, the Apex Court observed and held as under:-

“7. The plaint can be rejected under Order 7 Rule 11 if conditions enumerated in the said provision are fulfilled. It is needless to observe that the power under Order 7 Rule 11 CPC can be exercised by the Court at any stage of the suit. The relevant facts which need to be looked into for deciding the application are the averments of the plaint only. If on an entire and meaningful reading of the plaint, it is found that the suit is manifestly vexatious and meritless in the sense of not disclosing any right to sue, the court should exercise power under Order 7 Rule 11 CPC. Since the power conferred on the Court to terminate civil action at the threshold is drastic, the conditions enumerated under Order 7 Rule 11 CPC to the exercise of power of rejection of plaint have to be strictly adhered to. The averments of the plaint have to be read as a whole to find out whether the averments disclose a cause of action or whether the suit is barred by any law. It is needless to observe that the question as to whether the suit is barred by any law, would always depend upon the facts and circumstances of each case. The averments in the written statement as well as the contentions of the defendant are wholly immaterial while considering the prayer of the defendant for rejection of the plaint. Even when the allegations



made in the plaint are taken to be correct as a whole on their face value, if they show that the suit is barred by any law, or do not disclose cause of action, the application for rejection of plaint can be entertained and the power under Order 7 Rule 11 CPC can be exercised. If clever drafting of the plaint has created the illusion of a cause of action, the court will nip it in the bud at the earliest so that bogus litigation will end at the earlier stage.”

13. A perusal of the record reveals that respondent has given the consignee details, details of destination and air freight charges in Para No. 4. Admittedly, the plaint does not contain the details of the goods booked by the petitioner and sent by the respondent to foreign destinations and taxes etc. According to the learned counsel of respondent, such details are available in the documents i.e. ledger accounts, sub-agency collection report, billing report, bills with airway bills, customer instructions and billing report filed with the plaint. It has not been disputed by the learned counsel for the petitioner that such documents are part of the trial court record. However, according to him, only averments made in the plaint are to be considered to find out as to whether the plaint discloses cause of action or not.

14. The question therefore for consideration is as to whether the documents filed with the plaint can be considered for determining whether the plaint discloses cause of action or not. The Hon’ble Supreme Court in the case of **Liverpool & London S.P. & I Association Ltd. Vs. M.V. Sea Success & Another, (2004) 9 Supreme Court Cases 512**, held that if the averments made in the plaint or documents relied upon disclose a cause of action, plaint should not be rejected merely on the ground that the averments are not



sufficient to prove the facts stated therein. It held that for the disposal of application under Rule 11 (a), the documents filed under Rule 14 must be taken into consideration.

15. The Coordinate Bench of this Court in the case of **Pfizer Enterprises & Anr. Vs. Dr. H.R. Manchanda & Anr., CS (OS) 641/2007**, placed reliance on the judgment of the Supreme Court in the case of *Liverpool (supra)* and observed as under:-

“13. It is well settled that the court has to see only the contents of the plaint to decide whether the suit discloses a triable cause of action, and whether this court has jurisdiction. The Supreme Court in *Liverpool & London S.P. & I Association Ltd. Vs. M.V. Sea Success & Another*, (2004) 9 Supreme Court Cases 512, held that for the purposes of Order 7 Rule 11 the Court should not only look at the averments in the plaint but also examine into documents filed along with, in view of Order 7 Rule 14. In *Sopan Sukhdeo Vs. Assistant Charity Commr.*, (2004) 3 SCC 137, the Supreme Court emphasized that a meaningful, and not formal reading of the plaint has to be adopted so as to nip in the bud any clever drafting of the plaint. Therefore, in order to decide the issue of jurisdiction and to assess whether the plaint discloses a cause of action, only the contents of the plaint along with the documents filed are relevant.”

16. Similarly, in the case of **Inspiration Clothes & U Vs. Colby International Limited, 88 (2000) Delhi Law Times 769 (DB)**, while drawing distinction between the case where plaint on the face of it discloses no cause of action and where after considering entire material on record, Court concluded that there is no cause of action. It was held that where the plaint is based on documents, the Court is entitled to consider the said documents and ascertain if cause of action is disclosed in the plaint. It was held that to reject plaint on the ground



that it does not disclose the cause of action, Court should look at the plaint and documents accompanying the plaint only and nothing else.

17. Thus, it may be true that Order 7 Rule 11 even though authorizes the Court to reject a plaint on failure on the part of the plaintiff to disclose a cause of action but the same would not mean that the averments made therein or a document upon which reliance has been placed although discloses a cause of action, the plaint would still be rejected on the ground that such averments are not sufficient to prove the facts stated therein for the purpose of obtaining relief claimed in the suit. In view of the aforesaid judicial dictum, the plaint is not to be looked in isolation distinct from the documents relied upon with the plaint. Since the respondent has placed on record all the relevant documents which would furnish the requisite details regards the goods booked by the petitioner and sent by the respondent to the foreign destinations, taxes and dates of invoices, it therefore, cannot be said that plaint does not disclose the cause of action.

18. The phrase “does not disclose the cause of action” has to be very narrowly construed. The rejection of plaint at the threshold entails very serious consequences. This power therefore has to be exercised only in exceptional circumstances and ought to be used only when the Court is absolutely sure that plaintiff does not have any arguable case at all. The stand of the petitioner is not that a combined reading of the plaint together with the documents does not disclose the



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cause of action for filing the plaint. I, therefore, find no merit in the present petition. The same is accordingly dismissed.

19. The pending application, if any, also stands disposed of.

RAVINDER DUDEJA, J.

May 08, 2025

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