

**IN THE COURT OF PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

-:-

Civil Revision No. 1043 of 2014 (O&M)

Date of Decision: 19.12.2015.

M/s Lakshmi Energy & Foods Ltd. & Anr. Petitioners

Versus

Punjab State Warehousing Corporation Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present:- Mr. Sanjiv Bansal, Advocate, for the petitioners.

Mr. Vikas Singh, Advocate, for the respondent.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

KULDIP SINGH, J

Impugned in the present revision is the order dated 19.12.2013 passed by the learned Additional Civil Judge (Senior Division), Fatehgarh Sahib, vide which an application filed by the defendant-petitioner for rejection of the plaint under Order 7 Rule 11 of C.P.C was dismissed.

Briefly stated, plaintiff-Punjab State Warehousing Corporation has filed a suit for recovery of Rs.23,79,29,460/- against the present petitioners. Before the lower Court, an application was filed that suit is not maintainable and does not show any cause of action and therefore, it should be dismissed. Lower Court while rejecting the application held that all the allegations made in the plaint require adjudication on merits after due appreciation of evidence, to be adduced by the parties during the course of

trial and the suit as framed by the plaintiff cannot be said to be not maintainable or barred under provisions of law so as to attract the provisions of Order 7 Rule 11 of C.P.C.

I have heard learned counsel of the parties and in order to satisfy itself, this Court has gone through the plaint.

During the course of arguments, learned counsel for the petitioner seeks rejection of plaint on the ground that plaint does not disclose any cause of action. For this purpose this Court has been taken to para No.6 of the plaint wherein the plaintiff has alleged that 99316.95 qtls paddy was stored and entrusted with the defendant company under the joint custody for custom milling. It is contended that as per the policy no forms of entrustment were attached with the plaint. No receipt and security was taken in this regard. No release order is appended. Therefore, joint entrustment of the company is not proved. Reliance has also been placed on the judgment of Hon'ble Supreme Court in **Church of Christ Charitable Trust And Educational Charitable Society Vs. Ponniamman Educational Trust**, 2012 (8) Supreme Court Cases 706 and C.R No. 2703 of 1997 titled as **ABN-Amro Bank Vs. The Punjab Urban Planning and Development Authority**, decided on 22.07.1999.

After considering the said authorities, I am of the view that it is a question of fact in each and every case whether the plaint discloses cause of action? While examining the plaint and applying principles laid down in Order 7 Rule 11 C.P.C, the Court is not required to record the findings on merits. Only the plaint is to be examined to see whether it discloses cause

of action. The evidence which is sought be produced during the trial is not to be prejudged at this stage. It is different fact whether the plaintiff succeeds in proving the said facts by way of leading cogent evidence to prove his case. In the present case, the plaint does disclose cause of action.

There is no ground to reject the plaint. Accordingly, the present revision petition is dismissed.

December 19, 2015
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(KULDIP SINGH)
JUDGE