

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.2202 of 2015

Date of Decision.30.03.2015

Jai Bhagwan

.....Petitioners

Versus

Jai Parkash Gupta and another

.....Respondents

Present: Mr. Brijender Kaushik, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers 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?

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K. KANNAN J. (ORAL)

1. The revision petitioner as defendant in the suit had filed an application to reject the plaint under Order 7 Rule 11 CPC without filing written statement. This rejection was sought at the time when the defendant-petitioner was served with notice in application for injunction. The Court observed that the suit was maintainable and prima facie had, therefore, granted the relief of injunction and directed the plaintiff to file a reply to the application under Order 7 Rule 11 CPC.

2. Though I would find the procedure adopted by the trial Court to be rather strange that it was making a detailed consideration of maintainability of suit even without calling the plaintiff to file a reply to the application, I would find no reason for intervention at this stage, for, petitioner's right cannot be said to be finally adjudicated on the contentions raised by the plaintiff. Considering the fact that the Court

has not disposed of the application under Order 7 Rule 11 CPC but has only allowed the plaintiff to file a reply, I take it that any observation made by the plaintiff regarding the maintainability of suit will not be taken as final and it could be considered only in the application under Order 7 Rule 11 CPC after the reply is filed. The Court's observation regarding the prima facie case for injunction will also be confined as merely an injunction at the outset without calling the petitioner to file a reply to the injunction application. The petitioner will be at liberty to file a reply to the injunction application and the Court will pass a final order under Order 39 Rule 1, 2 CPC that will be capable of being challenged in the Appellate Court by either party who is aggrieved by such direction.

3. The order passed is modified to the effect referred to above. The civil revision is disposed of.

(K. KANNAN)
JUDGE

March 30, 2015
Pankaj*