

IN THE HIGH COURT OF PUNJAB AND HARYANA, AT
CHANDIGARH

CR No. 4611 of 2015 (O&M)
Date of Decision: 24.07.2015

Ram Phal

.....Petitioner

Vs.

Satbir

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Amit Kumar Goyal, Advocate,
for the petitioner.

SABINA, J.

Petitioner has filed this petition challenging the order dated 05.05.2015 whereby application moved by the petitioner under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (for short 'CPC), was dismissed.

Learned counsel for the petitioner has submitted that the petitioner had made statement before the trial Court that he had no concern with the suit property and shall not interfere in the same. Hence, the application moved by the petitioner under Order 7 Rule 11, CPC, was liable to be allowed.

Plaintiff has filed suit for declaration with consequential relief of permanent injunction. The case of the plaintiff is that he was owner in possession of Khasra No. 55//8/3 measuring 0 kanal 03 marlas situated in Village Kundli. The defendant was interfering in the peaceful possession of the plaintiff. Hence, the suit was filed.

Petitioner-defendant in his written statement denied the fact

that the plaintiff was owner in possession of the suit property. However, on 05.05.2010, petitioner-defendant made a statement before the trial Court that he had no concern with the plot of the plaintiff falling in Khasra No. 55//8/3 measuring 0 kanal 03 marlas and was not interfering in the said Khasra. He further stated that he was owner in possession of plot falling in Khasra No. 55//8/4. Respondent-plaintiff also made a statement that he had no concern with the plot falling in Khasra No. 55//8/4 and is not interfering in the said Khasra. He further stated that he was owner in possession of plot falling in Khasra No. 55//8/3 measuring 0 kanal 03 marlas.

Thereafter, petitioner moved an application under Order 7 Rule 11, CPC, praying that the plaint be rejected as there was no dispute left between the parties. The application moved by the petitioner was contested by the respondent-plaintiff.

A perusal of the plaint (Annexure P-1) reveals that the plaintiff had filed suit for declaration qua Khasra No. 55//8/3. The application moved by the petitioner was contested by the respondent-plaintiff. In the circumstances, the learned trial Court had rightly dismissed the application moved by the petitioner seeking rejection of the plaint because in case, the petitioner had admitted the claim of the plaintiff, the suit of the plaintiff was liable to be allowed/disposed of in accordance with law.

Hence, no ground for interference is made out.

Dismissed.

**(SABINA)
JUDGE**

July 24, 2015
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