

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

CR No.6777 of 2015

Date of decision: 16.10.2015

Bakshi Ram

...Petitioner

versus

Ashok Kumar and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Zorawar Singh Chauhan, Advocate,
for the petitioner.

RITU BAHRI, J.

Challenge in this petition is to the order dated 15.09.2015 (Annexure P-1) passed by the Civil Judge (Junior Division), Jalandhar, whereby application filed by the petitioner under Order 7 Rule 11 CPC for rejection of the plaint, has been dismissed.

While dismissing the application, it has been observed by the trial Court that issues were framed in the suit on 23.01.2015 and after framing of issues, three witnesses of the plaintiffs-respondents have been examined. The petitioner is seeking dismissal of the suit on the ground that the same is not maintainable.

After going through the impugned order, this Court is of the view that the application of the petitioner has been rightly dismissed by the trial Court as object of Order 7 Rule 11 CPC is to consider the case of the plaintiff(s) as set out in the plaint itself and not to examine the averments made in the written statement. In the present case, after filing of the written statement by the defendants, issues have already been framed and three

witnesses of the plaintiffs have been examined.

Learned counsel for the petitioner has referred to the judgment passed by the Bombay High Court in **Punjab National Bank, Ballarpur Vs. Shaikh Jumman Shaikh Guljar**, 2011 (5) RCR (Civil) 97. However, this judgment is not applicable to the facts of the present case, as in that case, the trial Court had framed the preliminary issue with regard to jurisdiction of the Civil Court and dismissed the suit. However, the order dismissing the suit was set aside by the lower appellate Court and a direction was given to the trial Court to decide the suit on merits. This order was challenged by way of revision in the Bombay High Court and it was held that the trial Court had rightly dismissed the suit of the plaintiff by deciding the preliminary issue with regard to jurisdiction of the civil court. However, in the facts of the present case, no issue with regard to jurisdiction has been framed. Once, the evidence has commenced, no case for dismissal of the suit under Order 7 Rule 11 CPC is made out.

In view of the above, no ground for interference is made out.

Dismissed.

(RITU BAHRI)
JUDGE

16.10.2015

ajp