

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

Date of decision:12.02.2015.

Hari Krishan Kakkar

.....Petitioner

v.

Chander Kanta and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.HS Dhandi,Advocate for the petitioner

Jaswant Singh,J.(Oral)

Defendant no.2 is in revision aggrieved by the order dated 23.1.2015 (P-6) passed by Civil Judge (Junior Division) Chandigarh whereby his application under Order 7 Rule 11 CPC for rejection of the plaint has been disposed of.

A perusal of the paper book reveals that the residential house No.1291, Sector 37-B, Chandigarh (suit property) was owned by Sh.Bikramjit Lal Puri/defendant no.1, who is averred to have executed a sale deed dated 23.5.2003 in favour of defendant no.2- Sh.Hari Krishan Kakkar/petitioner. The wife, daughter and one son of Sh.Bikramjit Lal Puri/plaintiffs filed a suit for declaration inter alia challenging the aforesaid sale deed. It is conceded that in the plaint it was pleaded that Sh.Bikramjit Lal Puri was of unsound mind and therefore, incompetent to execute the sale deed. After both sides had led their entire evidence and said Sh.Bikramjit Lal Puri having since

died, plaintiffs moved an application (P-3) under Order 32 Rule 15 CPC leading to the present petitioner/defendant no.2 also moving an application under Order 7 Rule 11 CPC for rejection of the plaint. The learned trial Court vide two separate orders (P-6 & P-7) of even date has disposed of both the applications by recording that the issues were framed by the Court on 1.4.2013 and issue no.3 has been framed regarding maintainability of the suit and the respective claims being covered under the said issue would be decided in the light of evidence led by the parties at the time of passing of the judgment.

Having heard learned counsel for the petitioner, this Court finds that keeping in view the stage of the case the approach of the learned trial Court is absolutely right which requires no interference by this Court under Article 227 of the Constitution.

Dismissed.

12.02.2015
joshi

(Jaswant Singh)
Judge