

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

CR No.1401 of 2016

Date of decision: 24.02.2016

Rajiv Dhulla

..... Petitioner.

Versus

M/s Aravali Apparels Pvt. Ltd.

.....Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.Gagandeep Toni, Advocate
for the petitioner.

DARSHAN SINGH, J. (Oral)

The present civil revision petition has been preferred against the order dated 07.01.2016 passed by the learned Civil Judge (Jr. Division), Gurgaon, vide which the application filed by the petitioner under Order 7 Rule 11 read with Section Code of Civil Procedure, 1908 (for short 'C.P.C.') has been dismissed.

2. Learned counsel for the petitioner contended that the plaint presented by the respondent did not disclose any cause of action. He contended that there was no material to show any relationship of employer and employee between the parties. The plaintiff-respondent has also not placed on file any documentary evidence to show the terms and conditions against which the alleged loan was advanced to the petitioner-defendant. The plaintiff company has not disclosed or filed a

single document sent to the defendant for repayment of the alleged loan. Thus, he contended that the plaint does not disclose any cause of action and was liable to be rejected.

3. I have duly considered the aforesaid contentions.

4. There is no dispute with the proposition of law that for the purpose of deciding the application under Order 7 Rule 11 CPC, only the contents of the plaint are to be looked into. The Court cannot take into consideration the defence raised by the defendant in the written statement neither the Court can go into the merits of the case. Reference can be made to case **P.V.Guru Raj Reddy Rep. By GPA Laxmi Narayan Reddy and another Vs. P.Neeradha Reddy and others etc. 2015(2) R.C.R (Civil) 43.**

5. Learned counsel for the petitioner has pleaded that the plaint does not disclose any cause of action. Annexure P-2 is the copy of the plaint filed by respondent-plaintiff. Respondent-plaintiff has filed the suit of recovery of Rs. 17,50,000/- along with interest on the ground that respondent was working in M/s Harton Communication Pvt. Ltd, the sister concern of the plaintiff company since 2009 and he worked in different capacities and resigned on 08.04.2015. It is further pleaded that in the month of March-April, 2014, the petitioner-defendant approached for grant of unsecured loan of Rs. 20 lacs along with interest at the rate of 18 % per annum. The said amount was advanced vide cheque no.

0655412 to the defendant and the said cheque was to be drawn from the Corporation Bank, Sikanderpur Branch DLF Phase-1, Gurgaon. The said cheque was debited to the account of the plaintiff on 07.04.2014. The defendant has not returned the said amount. Hence the suit was filed for recovery.

6. Cause of action means a bundle of facts which taken with law applicable to them gives the plaintiff a right to relief against the defendant. Reference can be made to case **Swamy Atmananda & Ors. Vs. Sri Ramkrishna Tapovanam & Ors. 2005(3)R.C.R (Civil) 404**. In the instant case, the plaintiff-respondent has categorically pleaded that the amount of loan of Rs. 17,50,000/- was advanced to the petitioner through cheque, which was debited to their account and the said amount has not been returned by petitioner despite called upon to do so. Thus, it cannot be stated that the plaint does not disclose any cause of action.

7. Thus, I do not find any illegality in the impugned order calling for any interference by this Court while exercising the supervisory powers under Article 227 of the Constitution of India.

8. Resultantly, the present revision petition having, no merits, is hereby dismissed.

24.02.2016

S.khan

**(DARSHAN SINGH)
JUDGE**