

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

CR No.3335 OF 2016 (O&M)
DATE OF DECISION : 11TH MAY, 2016

M/s. Mitta India Private Limited, Gaziabad

.... Petitioner

Versus

Harpreet Inudstries, Ludhiana

.... Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes/No
2. To be referred to the Reporters or not ? Yes/No
3. Whether the judgment should be reported in the Digest? Yes/No

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Present : Mr. Sanjiv Bansal, Advocate for the petitioner.

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DARSHAN SINGH, J.

1. The present revision petition has been preferred against the order dated 18.03.2016 passed by the learned Civil Judge (Junior Division), Ludhiana, whereby the application moved by the petitioner-defendant under Order 7 Rule 11 Code of Civil Procedure, 1908 (hereinafter referred as 'CPC') for rejection of plaint, has been dismissed.

2. I have heard Mr. Sanjiv Bansal, Advocate learned counsel for the petitioner and have carefully gone through the paper book.

3. Learned counsel for the petitioner contended that the Civil Court at Ludhiana has no territorial jurisdiction. The application under Order 7 Rule 11 CPC can be moved at any stage of the suit. He further contended that the learned trial Court has not given any findings that the Civil Court at Ludhiana will have jurisdiction while dismissing the application. Thus, he contended that as the Civil Court at Ludhiana has no

territorial jurisdiction so the application has been wrongly dismissed by the learned Trial Court.

4. I have duly considered the aforesaid contentions. I find that the present application has been moved with malafide intention just to delay the proceedings of the case. The issues in this case were framed on 11.09.2012. The issue regarding territorial jurisdiction was also specifically framed. This fact is not disputed that the evidence of the plaintiff was already closed. The defendant has also led the evidence and the present application was moved when the case was pending at the stage of the evidence of the defendant.

5. It is the settled principal of law that for deciding the application under Order 7 Rule 11 for rejection of the plaint, only the contents of the plaint needs to be looked into. The stand of the defendant in the written statement or in the application for rejection of the plaint is wholly immaterial. The rejection of the plaint under Order 7 Rule 11 is a drastic step to terminate the civil action at the threshold. The condition precedent to exercise this power is stringent. In the instant case, the rejection of the plaint is being sought on the ground that Civil Court at Ludhiana has no territorial jurisdiction. The issue regarding this dispute has already been framed by the learned Trial Court. Moreover, the question regarding territorial jurisdiction is always the disputed question of fact which can only be decided on appreciation of the evidence of the parties.

6. Learned counsel for the petitioner has not been able to point out that from the contents of the plaint it can be determined that the Civil Court at Ludhiana has no jurisdiction.

7. As already mentioned, the conduct of the petitioner-defendant also appears to be malafide as this application has been moved at the stage when its evidence was going on and the plaintiff-respondent has already concluded its evidence. Moreover, the issue regarding the jurisdiction of the Court was already framed by the learned Trial Court. Thus, I do not find any illegality in the impugned order to call for any interference by this Court.

8. Resultantly, the present revision petition is hereby dismissed with costs of ₹15,000/- to be deposited with the District Legal Service Authority, Ludhiana.

11th MAY, 2016
'raj'

(DARSHAN SINGH)
JUDGE