

Civil Revision No.5275 of 2016 (O&M)

{ 1 }

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

C.R.No.5275 of 2016 (O&M)

Date of Decision: August 19, 2016

Gram Panchayat Bhanohar, Tehsil and District Ludhiana

...Petitioner

Versus

Sarabjit Singh & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

**Present: Mr.Rajinder Kumar Singla, Advocate,
for the petitioner.**

AMIT RAWAL, J. (Oral)

Petitioner-Gram Panchayat is aggrieved of the impugned order dated 19.5.2016 (Annexure P-13), whereby the application under Order 7 Rule 11 CPC for rejection of the plaint claiming permanent injunction restraining the defendants, their agents, servants, attorney, associates employee etc. from dispossessing the respondent-plaintiff from the property in question, except in due course of law, has been dismissed.

petitioner submits that the petitioner-Gram Panchayat already filed a petition under Section 7 of the Punjab Village Common Land Act, 1961 (for short “1961 Act”) and an ejectment order has already been passed on 27.7.1992 (Annexure P-1). Even the respondent-plaintiff has availed the remedy under Section 11 of 1961 Act and having failed to obtain the ad interim order, warrant of possession was issued.

I have heard the learned counsel for the petitioner and appraised the paper book.

The rejection of the plaint is on the basis of a judgment which is not applicable. During the course of arguments, this Court raised a query to Mr.Singla whether there is any ad interim order in the suit for injunction. The answer was neither in the negative or positive.

For deciding the application under Order 7 Rule 11 CPC, only the averments in the plaint have to be seen and not the pleadings. Once the petitioner-Gram Panchayat has already an order of eviction, it proves that the respondent-plaintiff is in possession and the suit is only for not dispossessing him, except in due course of law. In case the Gram Panchayat has already filed the execution, they shall be at liberty to seek the possession of the property in dispute stated to be in occupation of the plaintiff in accordance with law, i.e., in consonance with Annexure P-1.

With the aforementioned observations, the impugned order

Civil Revision No.5275 of 2016 (O&M)

{ 3 }

is upheld.

Revision petition stands dismissed.

**August 19, 2016
ramesh**

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No