

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

Civil Revision No.6680 of 2016
Date of decision: October 06, 2016

Dariya Singh through S.P.A. Satish ...Petitioner

Versus

Ram Kumar & others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Pankaj Mehta, Advocate for the petitioner.

Rajan Gupta, J.

Present revision petition is directed against the order dated 22.9.2016, passed by the trial court, whereby application u/o 7 rule 11 read with section 151 CPC filed by the petitioner has been dismissed.

Learned counsel for the petitioner has assailed the order. According to him, the suit filed by the plaintiff/respondents No.1 and 2 was not maintainable. He submits that plaintiff/respondent No.1 and 2 have filed the suit in order to harass the petitioner.

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

It appears, plaintiff/respondents No.1 and 2 filed a suit for possession by way of partition in respect of a plot measuring 01 Kanal, situated in village Kharkhari, District Hisar. After closure of plaintiffs' evidence, contesting defendant/petitioner was granted four opportunities to lead his evidence. He, however, failed to produce any evidence despite

granting last opportunity, rather filed instant application for rejection of
plaint on the ground of non-maintainability of suit. The trial court
dismissed the application as it did not find any ground for rejection of the
plaint and also closed his evidence and adjourned the case for arguments.
Under the circumstances, I find no infirmity with the order passed. The
plea raised by the petitioner can only be decided on the basis of evidence.
Thus, provision of Order 7 Rule 11 CPC cannot be invoked in the
circumstances.

Dismissed.

(RAJAN GUPTA)
JUDGE

October 06, 2016
'Rajpal'

Whether speaking / reasoned	Yes / No
Whether Reportable:	Yes / No