

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.6492 of 2016 (O&M)

Date of decision:28.09.2016

Guru Nanak Govt. Employees Co-operative
House Building Society Ltd. Faridkot and another

... Petitioners

Vs.

Ravinder Singh Brar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Vishal Sharma, Advocate
for the petitioners.

AMIT RAWAL J. (Oral)

The petitioner-defendants are aggrieved of the dismissal of the application filed under Order 7 Rule 11 of Code of Civil Procedure (hereinafter referred to as “CPC”) seeking rejection of the plaint on the premise that nature of the suit, i.e., declaration and consequential relief of permanent injunction falls within the provisions of Section 55 read with Section 82 of the Punjab Co-operative Societies Act, 1961 (hereinafter referred to as “1961 Act”).

Mr. Vishal Sharma, learned counsel appearing on behalf of the petitioner-defendants submit that the aforementioned provisions, particularly Section 55 of 1961 Act specifically excludes the jurisdiction of the Civil Court as the defendants are seeking declaration from carving out the business *vis-a-vis* area which is as per the sanctioned site plan for the

shops. There is already an ad interim application. The grievance was that they could have sought the appointment of the Arbitrator. All these facts have not been noticed by the Court below, thus, there is illegality and perversity in the impugned order.

I have heard learned counsel for the petitioner-defendants and appraised the paper book and of the view that for adjudication of the application for rejection of the plaint, only averments made in the plaint have to be seen. If Sections 55 and 82 of 1961 Act read together, the same deal only with regard to nature of the cases which are outside the ambit of the Civil Court. In my view, the present case would not be outside the ambit of Civil Court.

The petitioner-defendants are at liberty to take all possible pleas in the written statement which have been taken in present revision petition.

In view of the aforementioned observations, no ground is made out for interference in the impugned order, much less, the same cannot be said to have been passed without jurisdiction.

Accordingly, the revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

September 28, 2016
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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No