

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CR No. 7034 of 2016(O&M)
Date of decision :20.12.2016

Dinesh Chopra

.....Petitioner

Versus

Narinder Kumar Chopra

.....Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.Ashok Bector, Advocate
for the petitioner.

DARSHAN SINGH, J. (Oral)

CM Nos. 21677 & 25577-CII of 2016

These application has been filed under Section 151 of the Code of the Civil Procedure, 1908 (for short CPC) for placing on record Annexures P-1, P-2 and A-3.

Heard.

In view of the reasons mentioned in the application, the applications stands allowed and the Annexures P-2, P-2 and A-3 is taken on record subject to just objections of the opposite party.

CR No. 7034 of 2016

The present revision petition has been preferred against the order dated 29.09.2016 passed by learned Addl. Civil Judge (Sr. Division),

Samrala, vide which the application moved by the petitioner under Order 7 Rule 11 read with Section 151 CPC for rejection of the plaint, has been dismissed.

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

3. Learned counsel for the petitioner-defendant contended that in the plaint, the plaintiff has mentioned the value of the suit property for the relief of possession only ₹ 20,000/-, whereas in the cross-examination, he admitted that the market value of the shop in dispute is more than Rs. 10 lacs. He contended that even as per the Collector Rates, the value of one marla of land in main Bazar, Machhiwara was about ₹ 3,60,000/-. Thus, he contended that the plaintiff has not properly valued the suit and has affixed the less Court fees. So, the plaint was liable to be rejected.

4. I have duly considered the aforesaid contentions.

5. It is settled principle of law that for deciding the application under Order 7 rule 11 CPC, the Court is only required to look at the plaint and decide whether it deserves to be rejected for the ground raised in the application or not. Reference can be made to case **Surjit Kaur Gill and another Vs. Adarsh Kaur Gill and another 2014(2) R.C.R (Civil) 36**. The Hon'ble Apex Court in case **The Church of Christ Charitable Trust & Educational Charitable Society, represented by its Chairman Vs. M/s Ponniamman Educational Trust represented by its Chairperson/ Managing Trustee 2012 (3) R.C.R (Civil) 811 (S.C)** has elaborated the legal position that the averments in the written statement are immaterial as it is the duty of the Court to scrutinize the averments/pleas in the plaint. It is further mentioned that what needs to be looked into in deciding such an

application are the averments in the plaint. The pleas taken by the defendant in the written statement are wholly irrelevant. The Hon'ble Apex Court in 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** has further laid down that at the stage of exercise of the powers under Order 7 Rule 11 CPC, the stand of the defendant in the written statement or in the application for rejection of the plaint is wholly immaterial. It is only if the averments of the plaint *ex facie* do not disclose a cause of action or the suit appears to be barred by any law, on the reading of the plaint, the plaint can be rejected.

6. In the instant case, the petitioner has sought the rejection of the plaint on the ground that in the cross-examination, the plaintiff has stated the market value of the suit property to be ₹ 10 lacs. Whereas, in the suit, he has mentioned the value of the suit property for the relief of possession to be ₹ 20,000/- only. The learned trial Court has observed that the suit was filed on 09.03.2009 and the statement of the plaintiff was recorded on 16.07.2015 i.e. after more than six years. Moreover, it is a question of evidence as to what would be the market value of the suit property on the date of filing the suit. The such disputed question of fact cannot be adjudicated upon at the stage of deciding the application under Order 7 Rule 11 CPC.

7. Thus, if, at the appropriate stage on appreciation of the evidence, the learned trial Court comes to the conclusion that the market value of the suit property has been under valued in the plaint, it will always be open to the learned trial Court to direct the plaintiff to make good the deficiency in the Court fees. But, at present, simply on the basis of some

admissions in the cross-examination that too after six years of filing the suit, the plaint cannot be rejected on the ground that the value of the suit property has been wrongly mentioned in the plaint.

8. Consequently, the impugned order does not suffer from any illegality. Therefore, it does not call for any interference by this Court.

9. Thus, the present revision petition having no merits, is hereby dismissed.

20.12.2016

S.khan

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No