

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

Civil Revision No.7531 of 2016

Date of decision: November 09, 2016

Sushil Piplani and others

...Petitioners

Versus

Kirandeep Singh & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. S.S. Panag, Advocate for the petitioners.

Rajan Gupta, J.

Present revision petition is directed against the order dated 15.10.2016, passed by the trial court, whereby application u/o 7 rule 11 read with section 151 CPC filed by the petitioners has been dismissed.

Learned counsel for the petitioners has assailed the order. According to him, the plaintiffs have no cause of action to file the suit, which is barred under section 41 of the Specific Relief Act.

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

It appears, plaintiff/respondents No.1 to 7 filed a suit for permanent injunction against the defendant/petitioners, restraining them from raising construction of a temple over the suit land as detailed in the plaint. During pendency of suit, defendant/petitioners filed instant application for rejection of plaint on the ground that plaintiffs have no cause of action and suit is barred under the Specific Relief Act. The trial

court dismissed the application as it did not find any ground for rejection of the plaint, by observing that there are mixed questions of law and facts and same cannot be determined without adducing evidence by the parties. I find no infirmity with the order passed. The plea raised by the petitioners 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

November 09, 2016
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No