

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

Civil Revision No.7626 of 2015

Date of decision: September 02, 2016

Dr. Navdeep Goel & another

...Petitioners

Versus

Fateh Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Jitender Malik, Advocate for the petitioners.

Mr. R.S. Saini, Advocate for respondent No.1.

Mr. S.K. Mahajan, Advocate for respondent No.2.

Rajan Gupta, J. (oral)

Present revision petition is directed against the order dated 12.10.2015, passed by the trial court, whereby application u/o 7 rule 11 CPC filed by the petitioners has been dismissed.

Learned counsel for the petitioners has assailed the order. According to him, the suit filed by the plaintiff/respondent No.1 was not maintainable as they had no cause of action to file the same and plaintiff also has no locus-standi to file the suit. He submits that plaintiff/respondent No.1 has filed the suit in order to harass the petitioners as they are residing in House No.112, whereas respondent No.1 is living in House No.111.

Plea has been opposed by learned counsel appearing for the respondents. They submit that issue of cause of action and locus standi are matter of record and same cannot be decided at this stage. Since the

petitioners started raising illegal construction, blocking air and light of house of the plaintiffs, suit was filed by the plaintiff/respondent no.1.

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

Plaintiff/respondent No.1 filed a suit with the averments that respondent No.2 Improvement Trust has wrongly permitted construction over more than the permissible area, resulting into closing air and light to his house. During the pendency of proceedings, instant application was moved by the defendants (petitioners herein) for rejection of plaint on the ground of non-maintainability of suit, there being no cause of action. They also questioned locus standi of the plaintiff. The trial court dismissed the application as it did not find any ground for rejection of the plaint. It observed that cause of action arose in favour of the plaintiff as he alleged that defendants No.1 and 2 had raised illegal construction, resulting into blocking air and light of house of the plaintiff. Under the circumstances, I find no infirmity with the order passed. The plea of locus standi 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

September 02, 2016
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No