

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

Civil Revision No.8030 of 2016 (O&M)
Date of decision: November 30, 2016

Dharampal Chaudhary ...Petitioner

Versus

Suresh Kumar and another ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Gaurav Jindal, Advocate for the petitioner.
Rajan Gupta, J. (oral)

Present revision petition is directed against the order dated 17.09.2016 (Annexure P-1), passed by the trial court, whereby application under section 11 CPC filed by the petitioner for dismissing the suit, has been dismissed.

Learned counsel for the petitioner has assailed the order. According to him, plaintiff/respondent No.1 is in habit of filing false applications against the defendants and his suit is not maintainable on account of principle of *res-judicata*.

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

It appears, plaintiff/respondent No.1 filed a suit against Central Bank of India as well as the petitioner for recovery of Rs.3,50,000/- on account of compensation and damages for loss of original sale deed of the plaintiff. During pendency of suit, petitioner/defendant no.2 filed instant application under section 11 CPC for

dismissing the suit on the ground that plaint is barred by the provisions of *res-judicata*. The trial court dismissed the application, as it did not find any ground for rejection of the plaint. It observed that conditions of Section 11 CPC are not satisfied and suit is not barred by Section 11 CPC. I find no infirmity with the order passed. I am of the considered view that first requirement of Section 11 is that there must be two suits, one former and another subsequent to it. Application under section 22-C of the Legal Services Authority Act, referred to by the petitioner, is not a suit for the purpose of Section 11 CPC. Moreover, said application was returned for presenting the same before the competent court. Similarly, any criminal complaint, alleged to have been filed by plaintiff cannot be said to be the suit. I find no ground to interference in revision jurisdiction. The present revision is, thus, without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

November 30, 2016
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No