

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.8488 of 2016
Date of decision:16.12.2016

Sanjog Kanta

... Petitioner

Vs.

The Municipal Committee, Gardhiwala and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sanjeev Pandit, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The petitioner-defendant No.4 is aggrieved of the impugned order dated 01.09.2016 (Annexure P-10), whereby, the application seeking rejection of the plaint by invoking the provisions of Order 7 Rule 11 of Code of Civil Procedure, has been dismissed.

Mr. Sanjeev Pandit, learned counsel appearing on behalf of the petitioner-defendant No.4 submits that the suit was filed on the premise that there was no cause of action accrued in favour of the respondent-plaintiffs to institute the suit as the nature of the suit was seeking declaration to the effect that the land comprised in khewat no.176 khatoni no.2097 bearing khasra no.355(1K-0M) situated within the revenue estate of Gardhiwala H.B.No.193 is in ownership of Municipal Committee Gardhiwala and also challenged the sale deed dated 24.09.2009 executed in the year 2007 in favour of defendant No.4. The Court below earlier had not passed any order

on the application and this Court, vide order dated 12.07.2016 had issued a direction to decide the application afresh. He further submits that the Court below has erroneously dismissed the application by holding that the averments made in the plaint have to be seen.

I have heard learned counsel for the petitioner-defendant No.4 and appraised the paper book.

I am in agreement with the finding rendered by the trial Court that for the purpose of adjudication of the application filed under Order 7 Rule 11 CPC, the averments made in the plaint have to be seen, until and unless, by way of guarded language, the plaintiff has attempted to bring the suit within the provisions of law. It is not a case in hand. Once there is challenge to the sale deed, at the best the petitioner can press for framing of issues, though the objection qua maintainability had already been taken. The trial Court shall decide the case, in accordance with law.

No ground is made out for interference in the impugned order.

Accordingly, the revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

December 16, 2016

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No