

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

SAO No.64 of 2016(O&M)

Date of decision:24.8.2016

Dharamvir

....Appellant

VERSUS

Hari Krishan and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Rakesh K. Kaundal, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

The present appeal has been directed against order dated 17.12.2015 passed by the District Judge, Chandigarh whereby the appeal against order dated 11.04.2014 passed by the Civil Judge (Junior Division), Chandigarh allowing the application under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (in short 'CPC') for rejection of the plaint was allowed and as a consequence the plaint was ordered to be rejected, has been allowed.

Counsel for the appellant would contend that as money lenders licence held by the respondents/plaintiffs at the time of institution of the suit was cancelled later, on the basis of allegations of fraud etc, the trial Court has rightly rejected the plaint by invoking the provisions of Section 3 of the Punjab Registration of Money Lender's Act, 1938. It is further submitted that the Court of appeal committed a serious error rather illegality in setting aside the order passed by the trial Court and remitting the matter to the trial Court for decision of the suit afresh.

Counsel for the appellant has not disputed that for deciding the application under Order 7 Rule 11 CPC, only the averments made in the plaint are to be examined and any plea raised in defence or in the application under Order 7 Rule 11 CPC cannot be looked into for deciding the question, if the plaint is liable to be rejected or otherwise. The Court of appeal in para 10 of the judgment, on a detailed consideration of the licence being held by the respondents/plaintiffs has held that the money lenders licence was renewed from time to time and lastly it was renewed up to 04.09.2009.

As the allegations raised by the appellant in the application under Order 7 Rule 11 CPC supported by any documents cannot be looked into at this stage of the proceedings, I do not find any error much less illegality in the impugned order warranting intervention.

Dismissed.

However, nothing stated in the order passed by the Court of appeal or by this Court would cause prejudice to rights of either of the parties at the time of final disposal of the suit on merits. As the appeal has been disposed of on merits, the application filed by the appellant for condoning delay of 137 days in filing the appeal is of academic relevance only.

AUGUST 24, 2016
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no