

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.2190 of 2017
Date of Order:24.07.2017

Manjit Singh and others

..Petitioners

Versus

Gurinderpal Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Anupam Bhardwaj, Advocate,
for the petitioners.

ANIL KSHETARPAL, J.

Defendants-petitioners have challenged order dated 25.01.2017, dismissing their application, filed under Section 11 of the Code of Civil Procedure. The order passed by the Court reads as under:-

“Heard on application under Section 11 of CPC read with Section 151 CPC for dismissal of the present suit by defendants no.1 to 5.

In reply, the contents of the application have been denied and dismissal of the same has been prayed for.

I have heard both the parties carefully. Perusal of copy of plaint on record shows that in the present case parties are different. Hence, the present application in hand is hereby dismissed. Now to come up on 17.02.2017 for filing written statement by defendant.”

I have heard counsel for the petitioners.

Section 11 of the Code of Civil Procedure deals with

resjudicata. It is admitted position on the record that earlier suit was dismissed in default under Order 9 Rule 8 CPC. There was no adjudication on merits in earlier suit. Section 11 CPC deals with the principle of resjudicata.

In my opinion, such application was wholly misconceived because the finding on the plea of resjudicata can only be given once the parties have led their evidence. In evidence, party would be required to produce and prove the pleadings in the previous suit as also a copy of the judgment passed. Application under Section 11 would not be maintainable at the preliminary stage when the parties have not lead their evidence.

Further as noticed above, the earlier suit was dismissed in default under Order 9 Rule 8 of the Code of Civil Procedure without adjudicating upon the issues involved in the previous suit.

Therefore, finding no merit in the revision petition, the same is ordered to be dismissed.

July 24, 2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No