

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

CR No. 3567 of 2017

Date of Decision: 10.08.2017

RATTAN SINGH

-PETITIONER

VS

DHARAM PAL SINGH

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Shashi Kumar Yadav, Advocate,
for the petitioner.

RAJ MOHAN SINGH, J. (ORAL)

Petitioner has assailed the order dated 28.02.2017 passed by Additional Civil Judge (Sr. Divn.), Gurugram whereby an application under Order 7 Rule 11 read with Section 151 CPC filed by the petitioner was dismissed.

Suit was filed by the plaintiff for recovery of Rs.2 lacs from the defendant which he had allegedly paid to him. Plaintiff further pleaded that out of the aforesaid amount of Rs.2 lacs, an amount of Rs.1 lac was paid to one Charanjit on the consent of the defendant. Defendant did not return the amount and on that very cause of action, plaintiff filed the suit.

Learned counsel for the petitioner vehemently contended that the alleged oral payment in the absence of any date and time constitutes a vague pleading thereby not

disclosing any cause of action.

At the stage of rejection of plaint under Order 7 Rule 11 CPC, only averments made in the plaint are to be seen. Cause of action is dependent upon bundle of facts. There is no provision to bar a party from recovering an amount which was allegedly paid orally. Such a plea is always subject to leading evidence at a subsequent stage.

At this stage, no such assessment on the basis of likely evidence to be led by the plaintiff, can be made in this revision petition.

This revision petition is found to be totally bereft of merits and the same is, accordingly, dismissed.

10.08.2017
jyoti

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No