

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

CR No.6627 of 2017
Date of decision : 26.09.2017

Dalbir Kaur and another

...Petitioners

Versus

Baljinder Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.S. Malhotra, Advocate for the petitioners.

ANIL KSHETARPAL, J. (ORAL)

The defendants are in revision petition against the order passed by the trial Court dismissing the application filed under Order 7 Rule 11 CPC.

It was pleaded that the suit is barred as the plaintiff has sought declaration of status with respect to defendant Nos.4 and 5. The application has been rejected on the ground that at the time of decision on the application under Order 7 Rule 11 CPC, only the pleadings in the plaint are to be examined. The trial Court has further noticed that while examining the application under Order 7 Rule 11 CPC, the Court has to be very cautious because it is a drastic power conferred on the Court to terminate the civil action at the threshold.

Learned counsel for the petitioners has submitted that the suit filed by the plaintiff is not maintainable as Class-1 heirs are not coming forward. In my opinion, such argument can only be a good defence but cannot be made a ground to reject the plaint. Order 7 Rule 11 CPC only

provides for limited grounds on which the plaint can be rejected. Order 7 Rule 11 CPC is reproduced as under:-

“11. Rejection of plaint— The plaint shall be rejected in the following cases:—

- (a) where it does not disclose a cause of action;*
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;*
- (c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;*
- (d) where the suit appears from the statement in the plaint to be barred by any law;*
- (e) where it is not filed in duplicate;*
- (f) where the plaintiff fails comply with the provision of Rule 9;”*

In my opinion, the case of the petitioners does not fall in any of the provisions of Order 7 Rule 11 CPC. The plaintiff has specifically pleaded the cause of action in para No.9 of the plaint.

In these circumstances, I do not find any good ground to interfere with the order passed by the trial Court.

Revision petition is dismissed.

26.09.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No