

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

**CR No.709 of 2017 (O&M).**  
**Date of Decision: 15.03.2017.**

Kesav Chand

....Petitioner.

**VERSUS**

M/s Metroline (Shivpuri) Infracon Pvt. Ltd. and others ....Respondents.

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**CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.**

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**Present:** Mr. Ashok Kumar Jindal, Advocate for the petitioners.

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**SNEH PRASHAR, J.**

**CM-2174-CII-2017**

Allowed, as prayed for.

**CR-709-2017**

The petitioner is aggrieved of the order dated 15.07.2016 by virtue of which his application under Order VII Rule 11 of the Code of Civil Produce (for short, "CPC") was dismissed by learned Additional Civil Judge (Senior Division), Mewat.

The submissions made Mr. Ashok Kumar Jindal, learned counsel representing the petitioner have been heard.

Learned counsel for the petitioner contends that the sale deed dated 09.12.2011 on which the plaintiff-respondent No.1 has based his claim in the suit filed by it for permanent and mandatory injunction was executed during pendency of Civil Suit No.893 of 2008 filed by the

petitioner which stands decreed in his favour on 31.01.2013. The said sale deed was referred to in the judgment and decree passed by the Additional Civil Judge (Senior Division) in favour of the petitioner and therefore, the same being illegal, null and void, confers no cause of action to the plaintiff-respondent No.1. A fresh suit for challenging the said sale deed is not maintainable under law and the plaint is liable to be rejected.

It is not the case of the petitioner that the sale deed in respect of which the present suit has been filed by respondent No.1-plaintiff was subject matter of the earlier suit. It has been mentioned by learned trial Court in the impugned order that in the judgment and decree dated 31.01.2013 there was only a passing reference of the sale deed but no findings were recorded with regard to the validity or genuineness of the said document. It was also observed that in the instant suit, plaintiff-respondent No.1 has claimed to be a bonafide purchaser of the suit land and has averred about collusion interse defendants (petitioner and other defendants) in order to deceive him. Under no provision of law, the plaintiff-respondent No.1 is debarred from filing the suit asserting his right on the basis of document in his favour. The validity and legality of the document would be a matter to be adjudicated upon by the Civil Court.

Thus, there being no illegality or perversity warranting interference in the order of learned trial Court, the petition is dismissed.

**(SNEH PRASHAR)**  
**JUDGE**

**15.03.2017.**  
*jitender sharma*

Whether speaking/ reasoned : **Yes/ No**

Whether Reportable : **Yes/ No**