

133 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.747 of 2017
Date of Decision: 31.10.2017.

Ramkumar deceased through LRs

... Petitioner

Vs.

Intime Promoters Pvt. Ltd. and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr.N.S. Panwar, Advocate
 for the petitioner.

 Mr. Sanjay Vij, Advocate
 for respondents.

GURVINDER SINGH GILL, J. (ORAL)

The present revision petition has been filed by the petitioner-plaintiff challenging order dated 12.10.2016 (Annexure P-4) passed by Civil Judge (Senior Division), Sonapat vide which an application filed by respondent Nos.1 to 4 under Order 7 Rule 11 of the Code of Civil Procedure for rejection of the plaint for deficiency the court-fee was allowed and the petitioners have been directed to make good deficiency in the court-fee.

At the very outset, learned counsel for the respondent submitted that the present revision petition is not maintainable as an order of rejection of plaint under Order 7 Rule 11, CPC, amounts to a decree in terms of Section 2(2) CPC and the same could only be challenged by way of filing an appeal under Section 96 CPC. In support of his submission, the learned counsel placed reliance on a Full Bench judgment of Andhra Pradesh High Court in Molugu Ram Reddy Vs. Molugu Vittal Reddy, 2012(3) RCR(Civil)

731, and a decision dated 30.10.2015 of this Court rendered in Civil Revision Petition No.3973 of 2014 titled as M/s HKS Developers Private Limited Vs. Mahendra.

Faced with the aforesaid proposition, learned counsel for the petitioner made a prayer to withdraw the present petition to enable him to file an appeal challenging the impugned order before appropriate Court.

Dismissed as withdrawn with liberty to petitioner to avail appropriate remedies in accordance with law.

However, the period spent by the petitioner in pursuing the present revision petition shall be excluded while considering the question of limitation at the time of filing appeal.

(GURVINDER SINGH GILL)
JUDGE

October 31, 2017
rekha

whether reportable

Yes/No

whether speaking/non-speaking

Yes/No