

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

**CR No.7531 of 2017 (O&M)
Date of Decision: 09.11.2017**

Narinder Kumar

...Petitioner(s)

Versus

PIMS Medical and Educational Charitable Society and others

... Respondent(s)

CORAM:-HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Abhay Kumar Sharma, Advocate
for the petitioner(s).

ANITA CHAUDHRY, J.

This petition has been filed against the order dated 26.10.2017 vide which the application filed under Order 7 Rule 11 C.P.C., has been dismissed.

The defendants were aggrieved by the dismissal of the application.

The plaintiff-Medical and Educational Charitable Society filed a suit seeking permanent injunction and restraining the defendants, their associates and other employees of the plaintiff-society from staging dharnas or demonstrations or using loud speakers within a radius of 500 mtrs. from the Institute. A further prayer for injuncting and restraining the defendants from intimidating the employees and visitors was also made.

The case of the plaintiff was that it was a non-profit organization and they were running and imparting medical education to 600 Students for MBBS. It was pleaded that the defendants were

their employees and were wanting a salary hike but they were using arm twisting, black-mailing and using pressure tactics and instigating other similarly placed employees to hold dharnas and demonstrations. It was pleaded that the defendants had got some news published giving distorted version to malign their reputation. The plaintiff also pleaded that they approached the Assistant Labour Commissioner, Jalandhar and several meetings were held but still the defendants were disrupting the normal functioning of the hospital. A suit was filed and stay was granted. Despite the stay, the defendants disobeyed the orders of the Court and they were compelled to file a petition under Order 39 Rule 2-A. It was pleaded that during the pendency of the earlier suit, a settlement was effected and the defendants had given a written undertaking that they would call off their proposed strike and it was agreed that the plaintiff-society would withdraw their cases and the cases were withdrawn on 08.07.2017. It was pleaded that on 09.08.2017, the defendants threatened to put a lock on the gates and on the next day the representatives of the employees were called for talks but 100 odd employees out of them forcefully entered the office and pressed for a dialogue in front of everyone and while talks were going on, they issued suicide threats and threatened to stage a dharna regarding the complaint lodged with the police. It was pleaded that they had exhausted all its efforts to persuade the defendants not to indulge in illegal activities.

The defendants on notice appeared in the Court and filed an application seeking rejection of the plaint pleading that the plaintiff-society had concocted a story and all the defendants had marked their presence and had performed their official duty for the entire day and the plaint was liable to be rejected as they had never revolted and the suit had been filed on mere presumptions and assumption. It was pleaded that instead of implementing the settlement, the plaintiff filed a suit as a pressure tactics and were forcing them to withdraw the matter before the Assistant Labour Commissioner, Jalandhar.

The plaintiff-society filed a reply to that application. The Lower Court after hearing both the sides dismissed the application.

I have heard counsel for the petitioner.

Counsel submits that the application for rejection of the plaint can be filed at any time and the suit was vexatious and did not disclose any right to sue and the Court below had passed a non-speaking order. Reliance was placed upon **'Madanuri Sri Rama Chandra Murthy Vs. Syed Jalal, 2017(3) R.C.R.(Civil) 64'** and **'Alpha Corp. Dev. Pvt. Ltd. Vs. Alpha Residents Welfare Assoc. (Regd.) 2017(2) R.C.R. (Civil) 868'**.

The submission on behalf of the petitioner is that the plaintiff-society had been unable to make out a case and there was no cause of action and they have not appended any photographs or CCTV camera pictures in support of their assertions and it was their

right to go on strike and the matter was under adjudication before the Labour Commissioner and the suit has been filed again as a counter blast to the application (Annexure P-6).

Order 7 Rule 11 CPC reads as under:-

"Order 7 Rule 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 written 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 to comply with the provisions of rule 9;*

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature for correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff."

[In Saleem Bhai and others vs State of Maharashtra and others](#) 2003(1) SCC 557, it was held with reference to Order 7 Rule

11 of the Code that the relevant facts which are required to be looked into for deciding an application are the averments in the plaint. The trial Court can exercise the power at any stage of the suit i.e after filing of the plaint or after issuing summons to the defendant at any time before the conclusion of the trial.

Similarly, in another judgment of Hon'ble the Apex Court in case [I.T.C. Ltd. v. Debts Recovery Appellate Tribunal and others](#) 1998(1) RCR (Civil) 391 (SC), it was held that the basic question to be decided while dealing with an application filed under Order 7 Rule 11 of the Code is whether a real cause of action has been set out in the plaint or something purely illusory has been started with a view to get out of Order 7 Rule 11 of the Code.

A reading of the judgment rendered in *Saleem Bhai's* case would clearly show that the averments in the plaint are only to be looked into. On going through the plaint, I find that the plaintiffs have disclosed that the cause of action has accrued to them again on the facts pleaded. So far as the question of evidence is concerned, it is a matter of trial.

I find no infirmity in the order passed by the Court below.

The revision petition is dismissed.

November 09, 2017

ps-l

**(ANITA CHAUDHRY)
JUDGE**

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No