

120.

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

CIVIL REVISION-1235-2018

Date of decision:21.02.2018.

JIWAN LAL

... Petitioner

Versus

MANOJ KUMAR & ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Ajay Kalra, Advocate,
for the petitioner.

HARI PAL VERMA, J.

Petitioner-defendant has filed the present revision petition under Article 227 of Constitution of India impugning the order dated 31.10.2017 (Annexure P-6) passed by learned Civil Judge (Junior Division), Patiala, whereby his application filed under Order 7 Rule 11 read with Section 151 CPC for rejection of plaint, was dismissed.

Respondent-plaintiffs had filed a suit for damages against the petitioner-defendant and his son Rajesh Goel. While the suit was pending, petitioner moved the aforesaid application for rejection of plaint, pleading therein that during the preparation of the case for cross-examination of witnesses, it came to the knowledge of petitioner-defendant that the place of marriage had deliberately not been mentioned by the respondent-plaintiffs so as to create jurisdiction before the court at Patiala. The plaintiffs are residents of Samana and the FIR regarding death of Saroj Rani was also registered at Samana, whereas petitioner-defendant is a permanent resident of Malerkotla. The respondent-plaintiffs have concealed the actual

to them at Patiala. The courts at Samana and Malerkotla have got no jurisdiction to entertain, try and decide the case. Accordingly, petitioner moved an application under Order 7 Rule 11 read with Section 151 CPC.

Reply to the said application was submitted by the respondent-plaintiffs and they have submitted that Saroj Rani had died at Patiala. Though the respondent-plaintiffs are permanent residents of Samana, but trial of the case was conducted at Patiala. However, petitioner has not caused any such objection in his application filed under Order 7 Rule 11 CPC or in his amended written statement. It is at the stage when PW-Hazari Lal has already been cross-examined, his affidavit in evidence was filed in October 2015, and even the affidavit PW Manoj Kumar has also been filed but his cross examination has not yet been started, the application has been filed at a belated stage.

Learned counsel for the petitioner has argued that the trial Court does not have territorial jurisdiction to adjudicate the suit for damages. Respondent-plaintiffs are permanent residents of Samana where the daughter of the petitioner after marriage was residing with her husband (respondent) and his parents & family. He has further argued that no cause of action has arisen within the territorial jurisdiction of courts at Patiala. The defendant resides within the territorial jurisdiction of court at Malerkotla and FIR in question was lodged at Police Station, Samana. Even the respondent-plaintiffs were arrested in Samana by the local police and the chargesheet was presented at Samana.

I have heard learned counsel for the petitioner and perused the orders.

The petitioner-defendant has moved an application under Order 7 Rule 11 read with Section 151 CPC at a very belated stage, when even the evidence has been started. Surprisingly, the petitioner-defendant has not raised any objection in the written statement filed by him which was even amended also. The objection regarding jurisdiction of courts must be taken at the very onset of proceedings i.e. at the initial stage when written statement has been filed, but no such application under Order 7 Rule 11 CPC was filed. The petitioner even amended his written statement.

In view of above, this Court does not find any reason to interfere with the impugned order dismissing the application filed by the petitioner-defendant under Order 7 Rule 11 read with Section 151 CPC, as the application has been filed at a much belated stage, that is, at the stage when even cross-examination of some of the witnesses have already taken place.

Accordingly, present petition is dismissed.

(HARI PAL VERMA)
JUDGE

21.02.2018
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No