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

**Civil Revision No.1893 of 2018
Date of Decision: 30.07.2018**

UNION OF INDIA

.....Petitioner

Vs

ARUN JAIN & ANR.

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Raghujeet Singh Madan Advocate
for the petitioner.

Mr. Sandeep Jain, Advocate
for respondents No.1 and 2.

RAJ MOHAN SINGH, J. (Oral)

On 21.03.2018, following order was passed by the Co-ordinate Bench of this Court:-

“Learned counsel contends that the impugned order directing the petitioner-defendant to file written statement in order to enable application under Order 7 Rule 11 of the CPC to be decided is contrary to well-settled law inasmuch as application under Order 7 Rule 11 of the CPC is not to be decided on the basis of stand in the written statement but on the basis of averments in the plaint itself. Learned counsel further contends that the respondent-plaintiff also filed a writ petition on identical grounds as taken in the civil suit but did not bring the filing of the writ petition to the notice of the learned trial Court even on

01.02.2018. Learned counsel contends that as per settled law, it is not open to a party to take parallel proceedings in two courts in respect of the same matter.

Notice of motion for 04.04.2018.

In the meantime, the learned trial Court shall defer the proceedings listed before it for 22.03.2018 to a date beyond the date fixed before this Court.”

The grievance of the petitioner was that the defendant cannot be compelled to press the application under Order 7 Rule 11 CPC only after filing of written statement.

Learned counsel appearing on behalf of respondents No.1 and 2 very fairly conceded to the prayer and submitted that the direction may be issued to the trial Court to decide the application under Order 7 Rule 11 CPC without insisting upon filing of written statement as a condition precedent.

In view of above, this revision petition is allowed. Impugned order dated 01.02.2018 passed by the Civil Judge (Sr. Divn.) SBS Nagar is set aside. Trial Court is directed to decide the application under Order 7 Rule 11 CPC on the basis of averments made in the plaint without insisting upon filing of written statement.

July 30, 2018

Atik

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No