

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

**CR No.5775 of 2016
Date of decision:30.10.2018**

Rohini Arora

... Petitioner

Vs.

Vatika Limited and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Gaurav Mohunta, Advocate
for the petitioner.

Mr. Adarsh Jain, Advocate
for the respondents.

AMIT RAWAL J. (Oral)

The petitioner-defendant is in revision petition against the impugned order dated 06.08.2016, whereby, an application under Order 7 Rule 11 read with Section 151 of Code of Civil Procedure for rejection of the plaint filed on behalf of the defendant seeking recovery of ₹18,49,493/- on the grounds stated therein, has been dismissed.

Mr.Gaurav Mohunta, learned counsel appearing on behalf of the petitioner-defendant submitted that the trial Court has committed illegality in dismissing the application as there is no whisper with regard to subsequent development i.e. settlement deed dated 15.06.2015 entered into between the parties which culminated into execution of the conveyance deed dated 22.06.2015 (Annexure P-12), much less delivery of physical

possession to the petitioner on 11.07.2015 and maintenance agreement dated 01.07.2015 effective from 01.09.2015. Once the respondent-plaintiffs had agreed to settle the dispute with the petitioner in view of the settlement deed and maintenance agreement, recovery of amount could not have been sought. It was a case of harassment and humiliation of the consumer, at the hands of the company.

Per contra, Mr.Adarsh Jain, learned counsel appearing on behalf of the respondents submitted that parameters for rejection of the plaint is, whether it would without jurisdiction or barred by limitation or grounds enumerated under Order 7 but not on the grounds enumerated in the application and thus, urged this Court for dismissal of the revision petition.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Mohunta, for, for the purpose of adjudication of the lis, particularly in application filed under Order 7 Rule 11 of CPC, the only averments made in the plaint have to be seen. If some interpretation of clause is required, the party can always press for specific issue and lead evidence and cannot seek the rejection of plaint outrightly. Main agreement is dated 27.08.2011 vide which the plaintiffs had agreed to sell and the defendant had agreed to purchase the unit no.702 situated on the 7th floor of the commercial complex. All these factors are mixed question of facts and law and can only be adjudicated through evidence.

No ground for interference is made out.

Revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

October 30, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No