

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

C.R. No.6783 of 2015

ICICI Lombard General Ins. Co. and Ors.

....Petitioners

Versus

Gagandeep and Ors.

....Respondents

Date of Order: 01.5.2018

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rajbir Singh, Advocate for
Mr. Sanjeev Goyal, Advocate for the petitioners.
AMIT RAWAL, J (ORAL)

Present revision is directed against the order dated 04.8.2015 passed by learned Addl. Civil Judge (Sr. Division), Patiala whereby the application filed by the petitioners-defendants under Order 7 Rule 11 CPC for rejection of the plaint has been dismissed.

Learned counsel for the petitioners-Insurance Company submitted that the respondent-plaintiff instituted the suit for declaration, seeking payment of the claim along with interest, on account of the vehicle Mahindra Scorpio bearing registration No.PB02ASA/6176 being stolen on 28/29.7.2006. Thereafter, the application was filed under Order 7 Rule 11 CPC by the petitioners for rejection of the plaint. He pointed out that the suit was filed on 31.8.2010 whereas the claim was repudiated in January 2007. The vehicle was allegedly stolen in Mathura whereas the suit had been filed in Patiala, though the respondent-plaintiff belongs to Tarn Taran. The trial Court did not have jurisdiction to try the same and has erroneously dismissed the application by relying upon the letter dated 22.8.2008, which

was a communication issued by the ICICI Bank and not by the petitioner-Company.

None has caused appearance for the respondents. Even on the last date of hearing, respondent No.1 was reported to be served but there was no representation on his behalf, though he was being represented by the counsel on previous dates.

I have heard learned counsel for the petitioners and perused the file with his able assistance.

It is well settled law that while adjudicating the application under Order 7 Rule 11 CPC, the averments of the plaint have to be seen. It is also not ascertained whether the petitioners had filed written statement or not.

From the simple and plain reading of the plaint, the objections raised in the application are not apparently made out. Thus, in my view, it would be just and expedient to dispose of this revision with liberty to the petitioners to file written statement, if any before the trial Court, which shall decide the questions of law and facts after taking into account all their objections qua limitation/jurisdiction etc.

Ordered accordingly.

May 01, 2018
manoj

^(AMIT RAWAL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable : Yes/No