

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

**CR No.6585 of 2017
Date of Decision:25.05.2018**

Suresh Chand Jain

...Petitioner

Versus

Rajiv Kumar and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Aditya Jain, Advocate for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

The revision petition is against the order dated 4.5.2017 passed by the learned trial court, refusing to reject the plaint under Order 7 Rule 11 of the Code of Civil Procedure.

Learned counsel for the petitioner has submitted that since the plaintiff is claiming an agreement to sell in his favour, therefore, remedy is only by filing a suit for specific performance of the agreement to sell.

No doubt, argument of the learned counsel for the petitioner has some substance, however, the suit is not only for permanent injunction but there is a second prayer, which is extracted as under:-

“A decree of mandatory injunction, directing the defendant No.2 to issue No Objection Certificate regarding the construction over the residential Plot No.A-2435, measuring 281.83 sq.yards situated at Green Fields Colony, Faridabad to the name of defendant No.1 and to supply the information regarding No Construction Zone, whether the construction can be made over the plot in question or not and whether they have issued the N.O.C. to the defendant No.1 or not qua the suit property, may kindly be passed in favour of the plaintiff against the defendants alongwith costs of the suit.”

In view of the aforesaid prayer made, it cannot be held that the suit filed by the plaintiff would be barred under Section 41 (h) of the Specific Relief Act, 1963. Hence, no ground to interfere in the impugned order passed by the learned trial court.

Dismissed.

25.05.2018
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No