

CR No. 6993 of 2018

Date of Decision: 29.10.2018

Santur Developers Pvt. Ltd. and another

.....Petitioners

Versus

Avinash Kumar Sharma and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Ashim Aggarwal, Advocate
for petitioner No.1.

Mr. Atul Aggarwal, Advocate
for petitioner No.2.

DEEPAK SIBAL, J. (ORAL)

Learned counsel for the petitioners submit that at this stage they only seek the issuance of a direction to the Additional Civil Judge (Senior Division), Panchkula (for short, the Trial Court) to take a final decision on an application preferred by the petitioners under Order 7 Rule 11 CPC seeking therein rejection of the plaint filed by respondent Nos.1 and 2.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that respondent Nos.1 and 2 filed a suit seeking therein a decree for mandatory injunction to direct respondent No.6-Pashtun Restaurant to vacate and hand over vacant possession of the building in Parikarma Group Housing, Sector-20, Panchkula (for short, the suit property) as according to them the suit property should and could be used only as a Community Centre for the exclusive use by the

Housing Colony. A decree for permanent injunction to restrain the defendants in the suit from changing the nature of the suit property and handing over the possession of the same to respondent No.6- Pashtun Restaurant or to anybody else except the plaintiffs was also prayed for. On being put to notice, the petitioners, who were defendant Nos.1 and 2 in the suit, appeared before the Trial Court and filed an application under Order 7 Rule 11 CPC seeking rejection of the plaint filed by respondent Nos.1 and 2 on the grounds mentioned in their application.

Learned counsel for the petitioners submit that the aforesaid application under Order 7 Rule 11 CPC was filed by the petitioners on 11.04.2018. Even after the passage of over six months, the same remains undecided and due to this fact the petitioners are suffering as during the interregnum status quo order has been passed by the Trial Court to the petitioners' prejudice.

Without opining on the merits of the grounds taken by the petitioners in their application filed under Order 7 Rule 11 CPC but considering the fact that such application is pending before the Trial Court for over six months and during the pendency thereof since an interim order has been passed by the Trial Court directing the parties to maintain status quo which is acting to the prejudice of the petitioners as also for the reason that the final decision on such application would only crystallize the rights of the parties which both parties to the lis would be keen to get determined, I deem it just and proper to direct the Trial Court to take a final decision on the application filed by the petitioners under Order 7 Rule 11 CPC on the next date fixed before it or subject to its convenience within 15 days thereafter in accordance with law.

The present petition is allowed in the above terms.

If the respondents are aggrieved by the instant order, they are at liberty to approach this Court through an appropriate application.

(DEEPAK SIBAL)
JUDGE

29.10.2018
sandeep

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No