

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

CR No.7572 of 2018
Date of decision : 12.11.2018

Sarbjinder Singh Bhullar

...Petitioner

Versus

Garib Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gurcharan Dass, Advocate for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

The defendant-petitioner is in the revision petition against the order passed by the learned trial Court dismissing an application filed under Order 7 Rule 11 CPC.

It is claimed that the plaint does not disclose any cause of action.

Learned trial Court has noticed that at the time of decision of the application filed under Order 7 Rule 11 CPC, only plaint is to be seen and no other document can be examined.

Learned counsel for the petitioner submitted that the plaintiff has concealed the various litigations filed inter parties which have already been decided. He has relied upon the judgment passed by Hon'ble the Supreme Court in (2018) 5 SCC 644, Soumitra Kumar Sen Vs. Shyamal Kumar Sain and others, to contend that at least the trial Court, after

framing the issues should try the issue with regard to the maintainability of the suit as a preliminary issue.

This Court, while examining the correctness of the order passed rejecting the application filed under Order 7 Rule 11 CPC, is not expected to adjudicate upon whether the issue with regard to the maintainability of the suit is to be tried as a preliminary issue or not. If permissible under law, the petitioner shall be at liberty to request the trial Court at appropriate stage to treat the issue of maintainability of the suit as a preliminary issue.

In view of the above, the present revision petition stands disposed of.

12.11.2018

Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No