

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

CR No.816 of 2015 (O&M)
Date of decision : 26.02.2018

Shalinder Kumar and another

...Petitioners

Versus

Shanti Devi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Parminder Singh, Advocate for the petitioners.

Mr. N.P. Bhardwaj, Advocate for respondent Nos.1 and 2.

Mr. Parveen K. Rohila, Advocate for respondent Nos.4 to 6.

ANIL KSHETARPAL, J. (ORAL)

Limited grievance of the petitioners is that the defendants had filed an application under Order 7 Rule 11(d) CPC calling upon the Court to reject the plaint in view of the previous litigation. However, the Court while deciding the application has held that the application would be considered while deciding the main suit. A reading of the order further shows that the Court also made a reference to the Order 14 Rule 2 Sub Rule 2 CPC which is with respect to the framing of the preliminary issue with regard to the maintainability of the suit. Even, this prayer of the defendants-petitioners was kept pending till the final disposal of the suit.

In the considered opinion of this Court, the entire approach of the learned trial Court was erroneous. Once an application under Order 7

Rule 11 CPC has been filed, the Court is required to decide the case in accordance with the parameters fixed under Order 7 Rule 11 CPC. Order 7 Rule 11 CPC provides for rejection of the plaint on the basis of the assertions made by the plaintiff in his plaint. The trial Court could not refuse to adjudicate the application and keep it pending till the final disposal of the suit.

In view thereof, the order under challenge dated 22.01.2015 is set aside.

Learned trial Court is requested to decide the application filed under Order 7 Rule 11 CPC in accordance with law within a period of one month from the date of receipt of certified copy of the order.

Revision petition is allowed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

26.02.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No