

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.7930 of 2017
Date of Decision: April 03, 2018

Balwant Singh & another

...Petitioners

Versus

Roop Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr.Sherry K.Singla, Advocate,
for the petitioners.

Mr.Ashish Verma, Advocate,
for the respondent.

AMIT RAWAL, J. (Oral)

Petitioners-defendants are in revision against the impugned order dated 4.9.2017 (Annexure P-5), whereby the application moved by them for dismissal of the suit being not maintainable, has been declined.

Mr.Sherry K.Singla, learned counsel representing the petitioner-defendants submitted that respondent-plaintiff Roop Singh instituted the suit for permanent injunction restraining the defendants from interfering in peaceful possession of the plaintiff over land measuring 24 kanals 6 marlas comprising of Khewat No.714 (24-6), situated within the revenue limits of village Chathe Wala, Tehsil Talwandi Sabo, District Bathinda illegally and forcibly. However, on receipt of the notice, an application was moved under Order 7 Rule 11 CPC for rejection of the plaint on the premise that the suit was not maintainable in view of the law

laid down by the Hon'ble Supreme Court in **Anathula Sudhakar Versus**

P.Buchi Reddy (Dead) by L.Rs & Ors., 2008 (3) ICC 508 on the ground that the simpliciter suit for injunction was not maintainable. The aforementioned application was contested by the respondent-plaintiff. However, the trial Court dismissed the application on the premise that none of the grounds referred to in application under Order 7 Rule 11 CPC were attracted for the purpose of maintainability of the suit. At the best, the suit could be decided after the parties had led evidence.

Mr.Ashish Verma, learned counsel representing the respondent-plaintiff submitted that the grounds taken in the revision petition other than the one referred to in the application, had been that similar suit Annexure P-6 between the same parties claiming injunction not with regard to the same very khewat but some other khewats also had been filed. The headnote of the plaint Annexure P-6 is the testimony of the same. Even otherwise, the suit had already reached the stage of plaintiff's evidence and the petitioners can be permitted to raise all pleas at an appropriate stage, but not in the manner and mode as indicated above.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr.Singla, for, it is yet to be decided by the Court whether the suit as framed was maintainable or not, for, the suit had already reached the stage of evidence. The petitioners shall be at liberty to take all possible objections on the basis of the evidence which is being led for discharging the onus laid while framing the issues at an appropriate stage, but not in the manner and mode as indicated above. It is too late in a day for consideration of the application. Even otherwise, the suit is not to be dismissed as it was simpliciter for injunction. The averments in the suit for adjudication of

application seeking rejection of plaint have to be seen. The averments made in the present suit with regard to the pendency of the other suit, *prima-facie*, do not bring the case within the purview of Order 7 Rule 11 CPC, for, the injunction has been sought not with regard to the khewat in dispute but some other khasra numbers and khewat as well.

For the reasons stated above, no ground for interference is made out. There is no illegality or perversity and the order cannot be said to be without jurisdiction. Resultantly, revision petition stands dismissed.

April 03, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No