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

**Civil Revision No.8444 of 2017 (O&M)
Date of Decision: 24.09.2018**

M/S MAGMA FINCORP LTD

.....Petitioner

Vs

RAJDEEP SINGH AND ORS.

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Nakul Sharma, Advocate
for the petitioner.

Mr. Mange Ram Sharma, Advocate
for respondent No.1.

Mr. Varun Sharma, Advocate for
Mr. Satpal Dhamija, Advocate
for respondent No.3.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has assailed the order dated 13.10.2017 passed by the Civil Judge (Jr. Divn.) Kaithal whereby the application under Order 7 Rule 11 read with Section 11 CPC and Section 5 of the Arbitration and Conciliation Act was dismissed.

[2]. In the suit for compensation filed by the plaintiff/ respondent No.1, following prayers were made:-

“(a) That a decree for possession of car in dispute cherlot spark No.HR-09-C-4133

OR

*(b) A decree for compensation on the loss suffered by the plaintiffs at the hands of defts and loss for physical harassment and mental agony
be passed with costs in favour of the plaintiff and against the defts.”*

[3]. Defendant No.2 filed an application under Order 7 Rule 11 read with Section 11 CPC and Section 5 of the Arbitration and Conciliation Act, 1996 for rejection of the plaint.

[4]. Vide the impugned order dated 13.10.2017, the trial Court rejected the prayer on the ground that the plaintiff has pleaded and argued that he has not challenged the arbitration award in the suit, rather he has filed the suit for compensation against the defendants on the ground that on 27.10.2011, the henchmen hired by the defendant No.2, forcibly took possession of the vehicle from the plaintiff after hitting the car and also caused injuries to the plaintiff and his brother. Defendants No.4 to 9 took possession of the vehicle forcibly. The damaged car was brought to the workshop of defendant No.1, but in collusion with defendants No.2 and 3, he asked for clearance of loan amount and compensation from defendant No.3. Collusion was pleaded and allegations of theft were made by the plaintiff.

[5]. The cause of action as shown in the plaint was based on bundle of facts. While deciding the application, specific stand of the plaintiff was highlighted that the plaintiff has not challenged the arbitration award, rather the suit was filed for compensation in respect of occurrence dated 27.10.2011 in which vehicle was forcibly re-possessioned and injuries were inflicted on the person of plaintiff and his brother.

[6]. At the stage of consideration of application under Order 7 Rule 11 CPC, only averments made in the plaint are to be seen. The powers in terms of aforesaid provisions are drastic in nature and are to be exercised with due care and caution. Cause of action is always dependent upon bundle of facts and the same cannot be entertained at the stage of consideration of application under Order 7 Rule 11 CPC. The documents relied upon by defendant No.2 would be tested in terms of the authenticity at the relevant stage.

[7]. In view of above, the impugned order passed by the trial Court cannot be faulted with in terms of lack of jurisdiction in any manner. This revision petition is accordingly dismissed.

September 24, 2018

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No