

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 255 of 2019

Date of Decision: 16.01.2019

Satish Kumar Sharma

.....Petitioner

Versus

Subramaniam Ravi and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sanjay Mittal, Advocate
for the petitioner.

AVNEESH JHINGAN, J.(oral)

The present civil revision petition has been filed under Article 227 of the Constitution of India, for setting aside of order dated 12.9.2018 passed by Civil Judge (Junior Division), Gurugram, (hereinafter referred to as 'the Court below') dismissing the application of the petitioner filed under Order XIV Rule 2 of the Code of Civil Procedure, 1908 (for short 'CPC') for making question of jurisdiction and power of attorney as preliminary issue.

The facts in brief are that plaintiff No.1 (hereinafter referred to as 'respondent No.1') filed a suit for recovery against the petitioner-defendant (hereinafter referred to as 'petitioner'). A suit for permanent injunction was filed by plaintiff No.2 (hereinafter referred to as respondent No.2). On notice written statement was filed and the case was fixed for evidence. The petitioner filed an application under Order XIV Rule 2 of CPC raising issues that there is no valid power of attorney filed by respondent No.2 and the second issue was raised that there was no cause of action with the plaintiff to file the suit. The

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said application was dismissed vide order dated 12.9.2018.

Aggrieved of the order, the present civil revision petition has been filed.

Learned counsel for the petitioner contended that at present he is only pressing the issue with regard to territorial jurisdiction. After arguing for sometime, learned counsel for the petitioner restricted his arguments raising an apprehension that the issue regarding territorial jurisdiction would not be dealt with by the court below even in the regular hearing.

The apprehension is ill founded. While dismissing the application, the Court has made following observations:

"It is pertinent to mention that perusal of the case file shows that application Under Order 7 Rule 11 CPC filed by the applicant/defendant No.1 has been dismissed where similar objections has been taken. From the pleadings of the parties with regard to the specific issue and with regard to the maintainability of the suit have been framed and currently the plaintiff evidence is under progress and two witnesses have already been examined. Now once the specific issues have already been framed and the evidence of the plaintiff has come on record, therefore, no purpose would be served by framing the preliminary issue. It would be apt to decide the case on merits, once the respective evidence of the parties come on record. Application in hand is dismissed and accordingly disposed off."

From perusal of the order, it is evident that only application for framing preliminary issue of territorial jurisdiction has been rejected and it has been stated that since a specific issue to that effect has been framed and evidence has come on record, no purpose would be served by framing

In view of the findings recorded, no interference is called for.

The civil revision petition is dismissed.

16.01.2019

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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No