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

**Civil Revision No.3351 of 2018
Date of Decision: 09.05.2019**

Gurapan Chauhan

.....Petitioner

Vs

Harminder Paul and others

....Respondents

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

Present: Mr. Vivek Chauhan, Advocate
for the petitioner.

Mr. Arun Jain, Sr. Advocate with
Mr. Vaibhav Sehgal, Advocate
for respondents No.1 to 4.

Ms. Jasleen Kaur, Advocate for
Mr. Vikas Chatrath, Advocate
for respondent No.10-State Bank of Patiala.

Mr. Ashok Kumar Singla, Sr. DAG, Punjab
for respondents No.11 and 12.

Mr. Neeraj Sharma, Advocate
for State of Himachal Pradesh.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has assailed the order dated 06.09.2017 passed by the Civil Judge (Jr. Divn.) Ludhiana vide which the application filed by the petitioner under Order 7 Rule 11 CPC for rejection of the plaint was dismissed.

[2]. Plaintiff filed a suit for declaration and recovery by way of mandatory injunction directing the defendants No.1 to 5 to release the amount along with interest w.e.f. 01.01.2016 which is lying deposited with the State Bank of Patiala, Mehre Branch, Barsar, District Hamirpur (H.P.). Plaintiff also sought recovery of balance amount of Rs.17,46,600/- along with interest besides seeking permanent injunction restraining defendants No.9 to 17 from alienating the property as shown in Schedule-A attached with the plaint.

[3]. Son of respondent No.1 was abducted by the petitioner and others. Ransom amount of Rs.5 crores was taken from respondent No.1 at Ludhiana. FIR No.72 dated 14.07.2013 under Sections 364-A/307/323/324/171/148/149/120B/506/420/467/468/471/201 IPC, under Sections 25/54/59 of the Arms Act, under Sections 29-64-85 of the NDPS Act and under Section 66-A of the IT Act was registered at Police Station Doraha, District Ludhiana. The said criminal case is still pending in the Court of Addl. Sessions Judge, Ludhiana.

[4]. After commission of the crime, the driver ran away and was ultimately caught in Himachal Pradesh and recovery of the amount was effected by the Police and FIR No.92 dated 16.07.2013 under Sections 379/411 IPC was registered at Police Station Barsar, District Hamirpur (H.P.). The trial of the

said FIR has already been concluded and the accused therein have been convicted and sentenced to undergo rigorous imprisonment for 3 years.

[5]. A revision petition was filed by respondent No.1 for release of the amount in the Himachal Pradesh High Court for release of the amount. The said revision petition was partly allowed. Para 10 of the order reads as under:-

“10. In view of findings upon point No.1 above present revision petition is partly allowed. It is held that ownership right of seized currency notes is complicated issue of fact qua ransom money. Revisionist is directed to seek adjudication of his complicated issue of fact relating to ownership right of seized property from competent civil Court of law or as directed by criminal Court in FIR No.72/2013 dated 14.07.2013 registered in Police Station Doraha District Khanna Ludhiana Punjab in accordance with law. Judgment of learned Trial Court affirmed by learned Additional Sessions Judge modified to this extent only relating to seized currency notes. Files of learned Trial Court and learned First Appellate Court alongwith certified copy of the order be sent back forthwith for compliance. Criminal Revision Petition No.319/2015 is disposed of. Pending application(s) if any also disposed of.”

[6]. The original occurrence which took place in Ludhiana is one of the incidents and in continuity the same went to Himachal Pradesh, where the amount was recovered and accused were subjected to trial. FIR No.72 dated 14.07.2013

registered at Police Station Doraha, District Ludhiana is still pending. The release of the amount in view of aforesaid facts and circumstances would give rise to triable issues and the same cannot be decided at the stage of Order 7 Rule 11 CPC. If the pleadings have created an illusion in respect of cause of action, the petitioner may avail his remedy in accordance with law. Issue of jurisdiction is a mixed question of law and facts and is dependent upon evidence to be led by the parties at an appropriate stage.

[7]. In view of aforesaid, no indulgence can be granted in this revision petition. This revision petition is accordingly dismissed.

May 09, 2019

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No