

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.3440 of 2018(O&M)
Date of Decision: 16.05.2019

Sohan Lal and others

.....Petitioners

Versus

Roop Lal and another

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Shiv Kumar, Advocate
for the petitioners.

Ms. Bhavna Kapur, Advocate
for respondent No.1.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioners have assailed the order dated 12.02.2018 passed by Civil Judge (Junior Division), Kapurthala whereby application filed by the petitioners under Order 7 Rule 11 CPC for rejection of plaint was dismissed.

[2]. Petitioners have raked up two grounds for rejection of plaint. Firstly, that the suit was filed without there being a cause of action and secondly, inadequacy of Court fee.

[3]. The trial Court has adverted to the fact that the plaintiff is a non-executant of sale deed, therefore, case is covered under second principle of **Suhrid Singh @ Sardool Singh Vs.**

Randhir Singh and others, 2010(2) RCR (Civil) 564, where it was held that non-executant of the sale deed being in possession is only to affix Court fee of Rs.19.50 under Article 17 (iii) of the Second Schedule of the Act. There is no dispute with regard to aforesaid factual position.

[4]. Secondly, learned counsel for the petitioners by referring to para Nos.2 and 4 of the plaint submitted that the suit involves no cause of action. Every suit pre-supposes the existence of a cause of action which means right to sue. It consists of material facts which are imperative for the plaintiff to allege and prove in order to succeed in the suit. Cause of action depends upon bundle of facts.

[5]. At the stage of consideration of application under Order 7 Rule 11 CPC, only averments made in the plaint are to be seen. The plea of cause of action being dependent upon numerous factors, cannot be considered at this stage, even if, there is no finding given by the trial Court in the impugned order.

[6]. No ground is made out to interfere in the present revision petition. This revision petition is accordingly dismissed.

16.05.2019

Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking **Yes/No**

Whether reportable **Yes/No**