

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

(104)

CR no.5390 of 2016

Date of Decision: 11.04.2019

Raj Kumar

...Appellant

Vs.

Ajit Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Alok Jain, Advocate, for the petitioner.

Mr. Dinesh Arora, Advocate, for respondent no.1.

Amol Rattan Singh, J (Oral)

Learned counsel for the parties are *ad idem* that with this Court having, yesterday, allowed the petition filed by the present petitioner against the order passed by the trial court on an application filed by the respondent-plaintiff under Order 6 Rule 17 of the Code of Civil Procedure, 1908 (in Civil Revision no.5807 of 2016), with the matter remitted to the trial court to take a fresh decision on the aforesaid application, it having been decided *post haste* by that court vide the order impugned in that petition; and the order impugned in the present petition, deciding an application filed by the present petitioner seeking rejection of the plaint under Order 7 Rule 11 of the CPC, being an order relying largely on the fact that the application under Order 6 Rule 17 of the CPC had been allowed, this petition may be also allowed to the extent that the impugned order be set aside, with the application of the present petitioner (defendant in the suit) under Order 7 Rule 11 of the CPC, to be taken up and decided afresh after the application

of the respondent plaintiff herein under Order 6 Rule 17 of the CPC is decided by that Court.

The contention of both learned counsel is found to be reasonable and consequently, while allowing this petition and setting aside the impugned order passed by the trial court, the matter is remitted to that court, for it to take a decision, wholly on its merits, on the application filed by the petitioner under Order 7 Rule 11 of the CPC, after a decision is taken by that court on the application filed by the respondent-plaintiff under Order 6 Rule 17 CPC, seeking the amendment of his plaint.

11.04.2019
vcgarg

(Amol Rattan Singh)
Judge

Whether speaking/reasoned : Yes
Whether reportable : No