

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 836 of 2019
Date of decision: 4.2.2019

M/s Super Tech Agro Oils Pvt. Ltd. and others

.. Petitioners

v.

Vijay Kumar and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Aayush Arora, Advocate for the petitioners.

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AVNEESH JHINGAN, J. (Oral)

Aggrieved of the order dated 4.1.2019 passed by Civil Judge (Junior Division), Ludhiana (hereinafter described as 'civil court') dismissing the application under Order VII Rule 11 of the Code of Civil Procedure, 1908 (for short, 'CPC'), the present civil revision petition has been filed.

The facts in brief are that respondent No. 1-plaintiff (hereinafter described as 'the respondent') filed a suit for damages on the ground that there was a frivolous complaint filed by the petitioners-defendants (hereinafter described as 'the petitioners') in the court at Mumbai. During the pendency of the civil suit, the petitioners filed an application under Order VII Rule 11 CPC raising an objection that no *ad valorem* court fee has been affixed. The application was dismissed vide order dated 4.7.2017. Thereafter another application under Order VII Rule

showing cause of action to file the suit had been filed by the respondent, hence the suit be dismissed. The application was dismissed vide order dated 17.1.2018.

An application under Order XI Rules 14 and 16 CPC was filed by the petitioners for direction to the respondent to produce the documents being relied upon. In the said application, vide order dated 18.8.2018 the civil court directed the respondent to provide copies of the documents sought by the petitioners. The respondent failed to supply the documents. The civil court vide order dated 7.9.2018 passed an order debarring the respondent to rely upon the said documents without prior permission of the court. The order is reproduced below:

“The plaintiff did not provide the copy of the complaint stated to be filed by the defendant No. 1 on dated 28.5.2009 as alleged in Para No. 9 of the plaint. The plaintiff was directed several times to provide the copy of the same and he failed to do so. Accordingly, the plaintiff is debarred from relying upon the said documents without the prior permission of the Court. The case is adjourned to 24.9.2018 for filing the written statement by the defendant No. 1, 2 and 3.”

Thereafter, another application under Order VII Rule 11 CPC was filed by the petitioners seeking rejection of the plaint. The application was dismissed vide order dated 4.1.2019 hence the present revision petition.

Learned counsel for the petitioner argues that the respondent failed to produce the documents which are the basis of cause of action in the plaint and the civil court erred in dismissing the application.

The contention raised by learned counsel for the petitioners

lacks merit. Order VII Rule 11 CPC is reproduced below:

“ ORDER VII

PLAINT

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11. Rejection of plaint.- The plaint shall be rejected in the following cases:-

- (a) where it does not disclose a cause of action;
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;
- (c) where the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;
- (d) where the suit appears from the statement in the plaint to be barred by any law;
- (e) where it is not filed in duplicate;
- (f) where the plaintiff fails to comply with the provisions of rule 9;

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature for correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed

by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.”

From the perusal of Order VII Rule 11 CPC, it is evident that a plaint can be rejected provided the grounds for rejection are made from the contents of the plaint itself. In the present case, the entire case of the petitioners for rejection of the plaint is based upon the subsequent order passed in various applications. That itself cannot be a ground for accepting the application under Order VII Rule 11 CPC. The Supreme Court in **Urvashiben and another v. Krishnakant Manuprasad Trivedi, 2019 (1)**

R.C.R. (Civil) 366 held as under:

“15. By applying the aforesaid principles in the judgments relied on by Sri Dushyant Dave, learned senior counsel appearing for the respondent, we are of the considered view that merits and demerits of the matter cannot be gone into at this stage, while deciding an application filed under O. VII R. 11 of the CPC. It is fairly well settled that at this stage only averments in the plaint are to be looked into and from a reading of the averments in the plaint in the case on hand, it cannot be said that suit is barred by limitation. The issue as to when the plaintiff had noticed refusal, is an issue which can be adjudicated after trial. Even assuming that there is inordinate delay and laches on the part of the plaintiff, same cannot be a ground for rejection of plaint under O. VII R. 11(d) of CPC.”

The petitioners had already moved two applications under Order VII Rule 11 CPC, which were dismissed. The contention raised in the present application is similar to the one raised in the second application.

The ground in the second application filed under Order VII Rule 11 CPC was that no document had been filed by the respondent and hence the plaint be rejected. In the present application, only the argument for the said contention has been changed stating that there was no document to show that the complaint was filed in the court at Mumbai.

In view of the above discussion, no shadow can be cast upon the findings recorded by the civil court. The civil revision petition is dismissed.

(AVNEESH JHINGAN)
JUDGE

4.2.2019
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No