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

CR No. 1085 of 2019

Date of Decision: 14.02.2019

Punjab Agro Industries Corporation Limited

-Petitioner

Vs

Anupa Kapoor

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Somesh Gupta, Advocate,
for the petitioner.

RAJ MOHAN SINGH, J. (ORAL)

Petitioner has preferred this revision petition against the order dated 07.02.2018 passed by Civil Judge (Junior Division), Kapurthala vide which application filed by the petitioner for dismissal of the suit being without jurisdiction.

Petitioner has not mentioned any provision under which the application was filed. Even if the application is treated under Order 7 Rule 11 CPC, only averments made in the plaint are to be seen. Plaintiff has filed a suit for declaration to the effect that the order of punishment dated 21.12.2016 withholding two increments of the petitioner with cumulative effect is illegal, wrong, without jurisdiction and against the principles of natural justice.

Para no.9 of the plaint reads as under:-

“That the civil courts at Kapurthala have got the jurisdiction to entertain and try the present suit, as the impugned order has been communicated to the plaintiff at Kapurthala.”

In para no.6 of the plaint, plaintiff has specifically asserted that the order of punishment is against the principles of natural justice. In para no.9, cause of action vis-a-vis jurisdiction of the Court at Kapurthala has been pleaded. Issue of jurisdiction and cause of action are mixed question of law and facts.

Cognizance in terms of Order 7 Rule 11 CPC cannot be taken.

Only grievance of the petitioner is that the plaintiff-respondent has alternative remedy of appeal before the Board of Directors and therefore, jurisdiction of civil Court cannot be invoked.

The averments in the plaint are the primary considerations at this stage. Pleadings are in the context of order of punishment being without jurisdiction and against the principles of natural justice.

In view of above, jurisdiction of civil Court would remain debatable for which evidence has to be led by the

parties at the relevant stage.

No indulgence can be granted in the case at this stage.

This revision petition is accordingly, dismissed.

Nothing expressed hereinabove shall be construed to be a final opinion on the merits of the case at the relevant stage.

14.02.2019

Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No