

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.14364 of 2018
Date of Decision: January 09, 2019

Vinod Kumar Pahuja

...Petitioner

Versus

Kamaljeet Kaur & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Dinesh Nagar, Advocate,
for the petitioner.

AMIT RAWAL, J. (Oral)

The present revision is directed against the impugned order dated 15.11.2018 (Annexure P-4), whereby the application submitted by the petitioner-defendant for rejection of the plaint under Order 7 Rule 11 CPC, has been dismissed.

Mr. Dinesh Nagar, learned counsel appearing on behalf of the petitioner submitted that the arrears of rent to the tune of ₹ 2,26,000/- including interest @ 9% in respect of Shop in dispute w.e.f. 01.04.2014 to 31.03.2017 @ ₹ 6000/- per month had erroneously been claimed as in the eviction petition, there was no issue with regard to rate of rent. In the eviction petition, which resulted into judgment and decree dated 30.01.2017, the rate of rent was not pleaded or proved. Rent petitioner had denied the relationship of landlord and tenant and appeal against the said order is pending. The suit, in such circumstances, was without jurisdiction and not maintainable.

I am afraid that the aforementioned argument is not sustainable as it is a mixed question of fact and law whether the rate of rent was ₹6000/- or otherwise. The plaint cannot be rejected on the defence of the defendant, but only when the averments in the plaint are found to be wanting compliance of statutory provisions of Order 7 Rule 11 CPC.

For the reasons mentioned above, the impugned order cannot be said to be without jurisdiction. No ground for interference is made out. Accordingly, the revision petition is dismissed.

January 09, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No