

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

CR No. 713 of 2019 (O&M)
Date of decision: 31.1.2019

Sushil Sharma

...Petitioner

Versus

Avtar Singh Jaura and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Ashish Grover, Advocate,
for the petitioner.

JAISHREE THAKUR, J.

The petitioner herein seeks to challenge the order dated 21.9.2018 passed by the Rent Controller, Bathinda, whereby his application filed under Order 7 Rule 11 read with Section 151 of the Code of Civil Procedure for rejection of the plaint has been dismissed.

Learned counsel for the petitioner herein contends that he is tenant under the respondent—Avtar Singh, who has filed an eviction petition against him under Section 13 of the East Punjab Rent Restriction Act, for ejection from part of property No. MC No. 2741-A, UID No. MCB A-301049, UID No. MCB A-301049/1, UID No. MCB A-301049/2, Goniana GT Road, Opposite Zila Parishad, Bathinda, as shown in red colour in the site plan Annexure A.

Learned counsel for the petitioner contends that the petitioner filed an application under Order 7 Rule 11 of the Code of Civil Procedure

on the ground that the eviction petition is pre-mature. It is contended that the ground for seeking eviction of the petitioner was that the son of the landlord was completing his studies and would require the premises to set up his Dental Clinic and as on date of filing of the petition, the son of the landlord was still a student. It is further argued that there is a family settlement dated 9.6.1999 between the family members and the family settlement does not disclose which part of the disputed property has gone to the share of the landlord and, therefore, eviction application has been filed just to cause harassment to the petitioner. The said application was dismissed by order dated 21.9.2018 which has been impugned in the present petition.

I have heard learned counsel for the petitioner and perused the the documents annexed with the petition.

Order 7 Rule 11 of the Code of Civil Procedure pertains to rejection of a plaint, which is reproduced as under:-

“Order VII

PLAINT

1. Particulars to be contained in plaint.—The plaint shall contain the following particulars:-

xx xx xx

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:”*

A plain reading of the said rule reflects that a plaint shall be rejected when it does not disclose a cause of action; where the relief claimed is undervalued, 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; where the suit appears from the statement in the plaint to be barred by any law and where it is not filed in duplicate.

Thus, the rule makes it clear that a plaint can be rejected if there is no cause of action or the relief claimed is undervalued or the suit appears to be barred by any law. Merely because an allegation has been made by the petitioner in his application under Order 7 Rule 11 of the Code of Civil Procedure for rejection of the plaint, such application will not be allowed automatically. The Court has to read entire plaint as a whole to find out whether it discloses a cause of action and if it does, plaint can not be rejected by exercising power under Order 7 Rule 11 of the Code of Civil Procedure. In this regard, reliance can be placed upon a judgment rendered in **Abdul Gafur and another Versus State of Uttarakhand and others**

2008 (10) SCC 97.

In the instant case, ejectment has been sought by the respondent-landlord on the ground that the demised premises is required for the use and occupation of his son, who is student of final year MDS and would be completing his studies in June, 2018 and would require the premises for opening up his own Dental Clinic. The premises would be required so that proper construction can be carried out and the premises is put to use thereafter on completion of studies of the petitioner's son. Therefore, the plaint definitely discloses a cause of action, which cannot be ignored at the threshold by holding that the same is premature. It is for the petitioner/tenant to prove that the landlord does not bonafidely require the premises for use and occupation of his son. As far as contention raised that the compromise deed does not reflect which share has fallen in the share of the respondent/landlord, it is not for the petitioner to dispute the same and ask for rejection of the plaint on this ground. The grounds seeking rejection of the plaint do not fall within the four corners of the grounds for rejection as enumerated in Order 7 Rule 11 of the Code of Civil Procedure to warrant any interference.

Resultantly, finding no merit in this petition, the same is dismissed.

31.1.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No