

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

**CR No. 1907 of 2021
Date of decision: 15.09.2021**

Dr. Rajesh Jain

...Petitioner

Versus

Rajender and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Dr. Rajesh Jain – Petitioner in person.

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

Grievance of the petitioner herein is against an order dated 02.09.2019 (Annexure P1), whereby two applications i.e. dated 22.01.2018 filed by him under Order 37 Rule 3(4) of CPC and the second dated 01.05.2018 moved under Order 7 Rule 11 CPC by the defendants, have been dismissed by the learned trial Court.

1. The petitioner, who appears in person, argues that the learned court below has erroneously granted the leave to defend to the defendants by ignoring the applicable law in an arbitrary manner.

2. Having perused the impugned order, I do not find any merit in the contention of the petitioner.

3. Strangely though the petitioner has appended his reply to the application preferred by the defendants under Order 37 Rule 3(4) CPC but conspicuously none of the applications has been appended herein. Be that as it may, the contents of both the applications are given in the impugned order herein. The relevant of the order under challenge reflecting

the facts of the case and the reasons of dismissal of both the applications are reproduced herein below:-

“2. Briefly stated, the plaintiff filed the present summary suit under Order 37 CPC on the basis of pronote allegedly executed by the defendants on 31.06.2013. As per the pronote, the defendants have purportedly agreed to repay the loan amount in 15 monthly instalments. The suit has been filed on 03.10.2017. The applicant/ plaintiff pleaded that the defendants put appearance before Court on 08.01.2018, but they never sought any formal permission to contest suit on merits. Hence, the plaintiff prayed that the summons for judgment be issued against the defendants.

3. The defendants duly replied the application with the pleadings that the plaintiff himself pleaded in para No. 13 of his plaint that the limitation of suit expires on 30.09.2017. The plaintiff filed the present suit on 04.10.2017, hence the plaint is liable to be rejected outrightly. Furthermore, the plaintiff's suit is not fit for issuing summons for judgment as the controversy involves complicated question of facts and law. In their application moved under Order 7 Rule 11 CPC, the dismissal of the suit has been sought on the ground that the suit is barred by limitation and further the plaintiff's suit is bad for want of money lending license.

4. It is pertinent to mention here that the plaintiff successfully got para No. 13 of his plaint amended by correcting the date of expiry of limitation from 30.09.2017 to 04.10.2017.

5. I have heard the plaintiff and the learned counsel for defendants at length and perused the case file carefully. In the present case, the summons has never been issued on the prescribed proforma under Order 37. Outrightly, the suit is based upon a pronote, which has been filled up with 3-4 different pens and there are further seven spots where interpolation/ correction have been made by using white fluid. The addresses of witnesses have not been mentioned. The lines and words are found inserted in between the columns to prescribe the terms and conditions of the repayment of loan amount. Therefore, there are apparently some complicated question of fact and law involved in the present lis. Though the defendants have not specified their exact defence in their reply, but this Court is of firm view that the present lis is required to be decided on merits and not summarily. Accordingly, the leave to defend is hereby granted to the defendants.

6. As far as the question of limitation and requirement of money lending license is concerned, both the questions are

mixed question of facts and law. These questions can only be adjudicated on the basis of evidence to be led by the parties.

7. In view of my above discussion, both the applications i.e. application dated 22.01.2018 filed under Order 37 Rule 3(4) of CPC by the plaintiff and second application dated 01.05.2018 moved under Order 7 Rule 11 CPC by the defendants are hereby dismissed.”

4. There is no room for interference in the aforesaid valid reasons recorded by the trial Court.

5. No material irregularity in law or procedure has been committed by the Court below in the pending trial, so as to exercise extraordinary revisional jurisdiction herein.

6. Dismissed.

15.09.2021
vs

(ARUN MONGA)
JUDGE

Whether speaking/reasonable:
Whether reportable:

Yes/No
Yes/No