

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

Sr. No.122

CR-1048-2021 (O&M)
Date of decision: 28.06.2021

Sham Lal

.....Petitioner

Versus

Bhupender Singh Goondli and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Navmohit Singh, Advocate
for the petitioner.

* * *

DEEPAK SIBAL, J. (Oral)

The matter has been taken up through video conferencing.

The present petition is directed against the order dated 16.02.2021 passed by the Civil Judge (Sr. Division), Hisar (for short – the Trial Court) dismissing an application filed by the petitioner under Order 7 Rule 10 CPC seeking therein the Trial Court to return respondent No.1's plaint on the ground that the Courts at Hisar lacked territorial jurisdiction to try the same.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that respondent No.1 filed a suit at Hisar against the petitioner and respondents No.2 to 4 seeking therein recovery of Rs.44,02,500/- by creating charge and sale of the properties mentioned in the headnote of his plaint. On being put to notice, before filing a written statement, the petitioner alongwith his co-defendants, filed an application under Order 7 Rule 10 CPC seeking the Trial Court to return respondent No.1's plaint on the ground that no cause of action, as sought to

be projected through respondent No.1's suit, arose in Hisar.

Respondent No.1 filed a reply to the application whereby he stated that the petitioner and his co-defendants in the suit had filed the application under Order 7 Rule 10 CPC with mala fide intention as they had failed to file their written statement within the statutory period of 30 days; the defendants in the suit had earlier filed an application under Order 7 Rule 11 CPC through which they had accepted the jurisdiction of the Courts at Hisar and that since part of the cause of action in respondent No.1's suit was at Hisar, the Courts at Hisar had jurisdiction to try the suit.

The Trial Court dismissed the petitioner's application filed by him under Order 7 Rule 10 CPC through the order under challenge in the present proceedings.

Learned counsel for the petitioner submitted that no cause of action in the suit filed by respondent No.1 arose within the territorial jurisdiction of the Courts at Hisar. The property at Hisar on which respondent No.1 was seeking to create a charge had, till date, not been inherited by respondent/defendant – Sham Lal as a civil suit with regard to its ownership was still pending and therefore, such property could not be made the basis to confer jurisdiction of respondent No.1's suit before the Courts at Hisar.

Through his suit respondent No.1 seeks to recover from the petitioner and his co-defendants an amount of Rs.44,02,500/- by creating charge and sale of properties duly mentioned in his suit which includes a property situated in Hisar. As per the averments made in the plaint 1/6th share of such property is owned by defendant/respondent – Sham Lal. Thus, as per the averments made in the plaint a part of the cause of action arises in

Hisar.

In the light of the above and the settled position of law that at the stage of decision of an application under Order 7 Rule 10 CPC the Court is only required to go through the contents of the plaint, no error of law or fact is found in the order impugned in the present petition.

Dismissed.

June 28, 2021
Jyoti 1

(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No