

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

CR-2502-2021 (O&M)

Date of decision: November 01, 2021

M/ Sonu Welding Works

...Petitioner

Versus

Punjab National Bank and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Namit Khurana, Advocate for the petitioner.

ARUN MONGA, J. (ORAL)

Grievance of the petitioner, herein, is *qua* an order dated 03.09.2021 (Annexure P-4) passed by learned Additional Civil Judge (Senior Division), Indri, whereby an application preferred by the petitioner-defendant No.1 under Order 7 Rule 11 read with Section 151 CPC for rejection of the plaint, was dismissed.

2. I have heard learned counsel for the petitioner and gone through the case file.

3. *Inter alia*, it is contended in the application under Order 7 Rule 11 CPC that Civil Suit is barred by limitation apart from relying on a signature expert's report stating that the signatures of the petitioner on confirmation letters, wherein he has confirmed the loan liability, are forged. On the other hand, learned trial Court while dismissing the application, observed as below:

“4. *Arguments heard. After listening arguments of both the sides and after going through the record, the court has arrived at conclusion that the contents of plaint reveal sufficient cause of action in favour of respondent/ plaintiff to file the present suit. The suit was filed on 16.03.2018, one of the*

documents relied upon by respondent/ plaintiff is a confirmation letter dated 17.3.2015 which is sufficient at this stage to show prima-facie that the suit has been filed within period of limitation. Learned counsel for applicant/ defendant placed on record copies of report of expert dated 17.03.2021 and argued that confirmation letters did not bear signature of defendants. In this regard, it is observed that whether or not confirmation letter bear signatures of defendant is a question which can only be decided after both the parties have led their respective evidence. Also, the question of limitation is a mixed question of fact and law which can be decided only on merits. Hence, the grounds taken by applicant/ defendant no.1 are without merits. The court does not find any ground for rejection of plaint.”

4. A perusal of above reasoning, with which I am in agreement with, leaves no manner of doubt that there is no irregularity either in facts or in law, so as to exercise extraordinary revisional jurisdiction vested with this Court. Forgery being matter of trial cannot be adjudicated summarily by way of Order 7 Rule 11 CPC. Application herein has been rightly dismissed by learned trial Court. Only when a plaint is *ex facie* barred by law, order 7 *ibid* is to be invoked, to avoid litigation which even otherwise, shall eventually meet the same fate any ways.

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

6. Dismissed.

(ARUN MONGA)
JUDGE

November 01, 2021

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No