

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

ASHOK KUMAR
2021.11.09 10:17
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CR-2613-2021 (O&M)

Date of decision: 08.11.2021

DAAR MOHAMMAD AND ANOTHER

..Petitioners

Versus

JAGGA SINGH

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikas Mehsempuri, Advocate for the petitioners.

ANIL KSHETARPAL, J (Oral)

Respondent-Jagga Singh had filed a suit for grant of decree of permanent injunction to restrain the defendants from interfering in his peaceful possession. During the pendency of the suit, the petitioners (the defendants before the trial Court) filed an application under Order 7 Rule 11 of the Code of Civil Procedure for the rejection of plaint on the ground that the plaintiff is not in possession of the property. When the application under Order 7 Rule 11 of the Code of Civil Procedure was pending, the plaintiff filed an application for permission to amend the plaint and so as to seek possession. Learned trial Court has allowed the application for permission to amend the plaint. Thus, the plaintiff has now sought possession of the disputed property. Consequently, the application under Order 7 Rule 11 of the Code of Civil Procedure has been dismissed as withdrawn.

Learned counsel representing the petitioners contends that the

trial Court has erred in dismissing the application filed under Order 7 Rule 11 of the Code of Civil Procedure as infructuous as the petitioners had filed the application prior in time.

The petitioners had requested the Court to reject the plaint. When the application under Order 7 Rule 11 of the Code of Civil Procedure came up for consideration, the defendants had already filed an application for permission to amend the plaint and the aforesaid application for amendment of the plaint has been allowed. Hence, the learned trial Court has correctly observed that the application filed by the petitioner for the rejection of plaint has become infructuous.

All the pending miscellaneous application(s), if any, are also disposed of.

08.11.2021

ashok

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE