

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

CR-2651-2021(O&M)

Date of decision:-09.11.2021

M/s Saraogi International

...Petitioner

Versus

The Bank Employees Cooperative Group Housing Society Ltd., Rewari

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Sahil Gupta, Advocate
for the petitioner.

H.S. MADAAN, J.(ORAL)

Case taken up through video conferencing.

1. This revision petition is directed against order dated 16.9.2021, copy Annexure P1, passed by Civil Judge (Sr.Divn.), Rewari vide which he had dismissed application filed by defendant in the civil suit, namely, M/s Saraogi International, a Partnership Firm, having its registered office at Gurugram for rejection of the plaint under Order VII Rule 11 CPC. Such defendant has approached this Court by way of filing the instant revision petition praying that the impugned order be set aside and application filed by revisionist/defendant be accepted, resultantly

plaint of the civil suit filed by plaintiff - The Bank Employees Cooperative Group Housing Society Ltd., Rewari, respondent in the present petition be rejected.

2. Briefly stated, the facts of the case are that plaintiff - The Bank Employees Cooperative Group Housing Society Ltd., Rewari had brought a civil suit against defendant M/s Saraogi International; on getting notice from the Court of Additional Civil Judge(Sr.Divn.), Rewari, the defendant had put in appearance and filed an application under Order VII Rule 11 CPC for rejection of the plaint. That application was resisted by the plaintiff-respondent. The trial Court vide the impugned order had dismissed the application, which left the defendant aggrieved and it has filed the present revision petition.

3. I have heard learned counsel for the revisionist/defendant besides going through the record and I find that the revision petition is without any merit for the following reason.

4. The first ground taken up in the application in question was that no cause of action arose the plaintiff to file the suit since the land in question had been acquired by Haryana Government and it has not been got released by the plaintiff – society since it was incumbent upon the plaintiff society to provide land to the defendant free from acquisition and other encumbrances so that licence could be taken and thereafter construction work on the land could start. Whereas the response to such objection by the plaintiff was that as per the terms and conditions of Collaboration Agreement dated 22.8.2013, the land was free from encumbrances ; the licence had been applied for however as per MOU

dated 20.3.2012, an amount of Rs.15,70,052/- only had been received by the plaintiff; the development work was to be completed within a period of three months from the date of signing of the Collaboration Agreement but no steps in that regard were taken by the defendant; however the parties had entered into Collaboration Agreement dated 22.8.2013, MOU dated 20.3.2012 and amending MOU dated 16.10.2014. It was the defendant, which had breached the terms thereof, therefore amount paid by defendant to the plaintiff stood forfeited and Collaboration Agreement as well as MOU were terminated. Now the defendant is not left with any concern with the suit property and cannot interfere or raise any objection, if remaining work of of the project is handed over to the other builder/developer, in that way, no cause of action had arisen to the plaintiff to file the suit.

5. The trial Court found the explanation rendered by the plaintiff to be convincing and the plea of applicant/defendant that suit was not properly valued for the purpose of Court fee and jurisdiction, to be devoid of merit and not tenable. It was also observed that the suit does not fall within the ambit of commercial disputes as per Commercial Courts Act, 2015. The trial Court did not find any merit in any of the objections raised by the defendant seeking rejection of the plaint and dismissed the application.

6. I find that the impugned order passed by the trial Court is detailed and well reasoned, which does not suffer from any illegality or infirmity and no interference therewith is called for while exercising jurisdiction under Article 227 of the Constitution of India.

7. Thus, finding no merit in the civil revision petition, the same stands dismissed.

09.11.2021
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(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No