

Sr. No. 119

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-2828-2021

Date of decision: 17.11.2021

Pepsu Road Transport Corporation, Patiala and others

...Petitioners

Vs.

Wakil Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Harsh Chopra, Advocate,
for the petitioners.

ARUN MONGA, J. (ORAL)

Petition herein, under Article 227 of Constitution of India is for setting aside the impugned order dated 19.01.2021 (Annexure P-4) passed by learned Civil Judge (Jr. Division) Patiala whereby an application moved by petitioners under Order 7 Rule 11 of CPC for rejection of plaint has been dismissed.

2. Learned counsel relies on a judgment of Apex Court rendered in case titled as “*Dahiben Vs. Arvinbhai Kalyanji Bhanusali (Gajra) (D) Through LRs and others*” decided on 09.07.2020 reported as **2020 (7) SCC 366**, which is not applicable to the facts of the present case.

3. I have heard learned counsel for the petitioners and gone through the case file.

4. No interference is called for in the order assailed herein, which is premised, *inter alia*, on the following reasoning:

“XXX XXX

I consider that it is settled principle of law that while considering the application under Order 7 Rule 11 CPC the contents of the plaint are to be seen. In this case, it is not denied that plaintiff was not working with the defendant. He is pensioner with the defendant is also not denied. He has stated

that he came to know about his less pension on 01.08.2019 and he based his cause of action on 01.08.2019 can be proved only by leading evidence. Moreover, the limitation is also a mixed question of law and fact. I consider that for the time being unless the plaintiff is given an opportunity to establish his case his suit cannot be rejected summarily. With regard to the right to amendment, I consider that plaint also cannot be rejected on such pleadings and the amendment if any is to be considered separately as and when comes. The application is disposed off accordingly. Now case is adjourned to 18.02.2021 for filing of reply to the application under Order 11 Rule 12 read with Section 151 CPC.”

5. A perusal of above 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. Having gone through the same, it seems to be a mixed question of facts and law. Provisions of Order 7 Rule 11 CPC can only be invoked where the suit is *ex facie* not maintainable being barred by any specific provision of suit or otherwise.

6. There is no room for interference in the aforesaid valid reasons recorded by the trial Court, with which I am in agreement with.

7. Dismissed.

17.11.2021
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:	Yes
Whether reportable:	No