

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

104+215

**CR No.5987 of 2019 (O&M)
Decided on : 15.09.2021**

AAJ TAK Channel and others

... Petitioners

Versus

Harwinder Sony

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Sumeet Goel, Senior Advocate with
Mr. Pradeep Sharma, Advocate and
Mr. A.K. Ranolia, Advocate for the petitioners.

None for the respondent.

G.S. Sandhawalia, J. (Oral)

In the present revision petition filed under Article 227 of the Constitution of India, the petitioner challenges the order dated 17.08.2019 whereby the Civil Judge (Jr. Division), Gurdaspur dismissed the application under Order 7 Rule 11 CPC filed by the present petitioners for rejection of the plaint and fixed the case for *ex parte* evidence of the plaintiff.

Senior Counsel for the petitioners has vehemently submitted that the petitioners-defendants were not represented at the time of passing of the order and the tenor of the order as such shows as if Court had heard the matter on merits and, therefore, he submits that the order is not justified.

Despite service none has put in appearance on behalf of the respondent.

There is substance in the arguments raised by the Senior Counsel for the petitioners in as much as it is not disputed that the suit for recovery of Rs.2 crores for damages and compensation has been filed by the respondent-plaintiff. The petitioners-defendants had filed an application for rejection of plaint under Order 7 Rule 11 CPC, on the ground that cause of action has not been disclosed and secondly that *ad-valorem* Court fee had not been paid. Reliance was placed upon the judgment of this Court passed in '**Ranjit Kaur and others Vs. Punjab State Electricity Board and another**', 2007 (1) RCR (Civil) 686.

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

CR No.5987 of 2019 (O&M)

-2-

Application was opposed by filing reply in which the plaintiff had relied upon the judgment passed in '**Gurmail Singh and others Vs. Manpreet Singh and others**', 2016 (4) Civil Court Cases 503. Resultantly, the case was fixed for consideration on the application on 27.02.2019 and thereafter, repeatedly adjourned on various dates on 05.04.2019, 09.05.2019, 17.07.2019 and eventually on 17.08.2019 the impugned order was passed. On 17.07.2019 the Court had adjourned the case for Saturday on behalf of the regular counsel for the defendants, since he was coming from the High Court.

It is not disputed that on 17.08.2019 counsel for the defendants was not present. However, the Court as such is stated to have considered his submissions, judgments relied upon by him and distinguished them while dismissing the application.

In such circumstances, this Court is of the opinion that as a appropriate hearing has not been given to the petitioners-defendants. In case counsel was not available, it was always open to the Court to impose costs in case, if the matter was being delayed at the hands of the petitioners-defendants. Even otherwise, it would be clear from the zimni orders that said counsel was available on each and every date except on 17.08.2019 when he was not present and the impugned order was passed adversely affecting the valuable rights of the petitioners.

In such circumstances, the impugned order dated 17.08.2019 is not sustainable and the same is set aside. Court shall decide the application for rejection of plaint afresh after hearing the parties on 23.09.2021 the date already fixed or any other date which is convenient to it.

September 15, 2021
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No