

102-2

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

CR-1707-2017 (O&M)
Date of decision : 29.11.2022

Balbir Chand	Versus	... Petitioner(s)
Gurparkash Singh		... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

Mr. Baljinder Singh, Advocate and
Mr. Jagtar Kureel, Advocate for the respondent.

ALKA SARIN, J. (ORAL)

The present revision petition has been filed challenging the order dated 27.01.2017 (Annexure P-6) whereby the application filed by the petitioner for rejection of the plaint under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (CPC) has been dismissed on the ground that it would be too early to reject the plaint at the very threshold without hearing the parties and looking into the evidence on record.

Learned counsel for the respondent states that the application has rightly been dismissed in the present case inasmuch as the judgment and decrees were obtained by fraud by the petitioner.

Heard.

Order 7 Rule 11 CPC reads as under:-

*“11. Rejection of plaint - The plaint shall be rejected in
the following cases :*

(a) where it does not disclose a cause of action;

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

(e) where it is not filed in duplicate;

(f) where the plaintiff fails to comply with the provisions of rule 9.

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.”

It is trite that an application for rejection of a plaint under Order

suit. The application simply cannot be dismissed on the ground that it would be too early to reject the plaint at the very threshold without hearing the parties and looking into the evidence on record. In *Saleem Bhai &ors vs State of Maharashtra [2003(1) RCR (Civil) 464]* the Supreme Court held that the power can be exercised by the Trial Court under Order 7 Rule 11 CPC at any point of time before the conclusion of the trial. If on a meaningful reading of the plaint it is apparent that the same is vexatious and meritless, the Trial Court should exercise the power under Order 7 Rule 11 CPC. The application ought to have been decided on merits.

In view of the above, the present revision petition is allowed and the impugned order dated 27.01.2017 (Annexure P-6) is set aside. The Trial Court is directed to decide the application under Order 7 Rule 11 CPC afresh, on the merits thereof, in accordance with law. Pending applications, if any, also stand disposed off.

**(ALKA SARIN)
JUDGE**

29.11.2022
Yogesh Sharma

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO