

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 6444 of 2015

Date of Decision: 09.12.2022

Jagdish

... Petitioner(s)

Versus

Madan Lal

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Ajay Jain, Advocate
for the petitioner(s).

Mr. S.K.Yadav, Advocate
for the respondent.

Anil Kshetarpal, J.

1. The defendant's application under Order VII Rule 11 of the Code of Civil Procedure, 1908 (hereinafter referred to as "CPC") to reject the plaint being barred under Order II Rule 2 CPC and *res judicata* has been dismissed by the trial Court. Both the aforesaid matters are required to be proved by leading evidence.

2. For proving the bar to the maintainability of a fresh suit under Order II Rule 2 CPC, the defendant is required to prove that the previous suit was filed between the same parties and on the same cause of action and the plaintiff could seek the present relief in the previous suit. Qua the bar on the ground of *res judicata*, the defendant is required to prove that the previous matter directly and substantially in issue in both the former and the present suit is the same and it was finally heard by a Court of competent jurisdiction

in the former suit itself, between the same parties or their predecessors-in-

interest.

3. Keeping in view the aforesaid facts, no ground is made out to interfere with the impugned order. Hence, the present revision petition is dismissed.

(Anil Kshetarpal)
Judge

December 09, 2022
“DK”

Whether speaking/reasoned :Yes/No
Whether reportable : Yes/No