

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

CR No.7273 of 2017 (O&M)
Date of decision: 12th December, 2022

Amarjit Kaur

... Petitioner

Versus

Angrej Singh @ Angrej Gir Chela Brahm Gir & another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Manish K. Singla, Advocate for the petitioner.
Mr. M.S. Yadav, Advocate for
Mr. Sunny K. Singla, Advocate for the respondents.

MANJARI NEHRU KAUL, J.

The petitioner/plaintiff is impugning order dated 22.09.2017 passed by learned Civil Judge (Junior Division), Sunam, wherein the application filed by the respondent/tenants under Order VII Rule 11 of the Code of Civil Procedure (hereinafter referred to as, 'CPC' or 'the Code') was allowed.

On being put to notice, learned counsel for the respondents has put in an appearance. At the outset, learned counsel for the respondents submits that the instant petition has been rendered infructuous as the trial Court has rejected the plaint of the petitioner vide order dated 23.10.2017 and in support thereof, learned counsel has placed on record a copy of the said order dated 23.10.2017.

Learned counsel for the petitioner, on the other hand, has not disputed the said fact, however, he submits that mere rejection of the plaint under Order VII Rule 11 CPC would not in any manner render the instant petition as infructuous. He submits that once the impugned order is set aside, the order rejecting the plaint of the petitioner would be unsustainable and the petitioner would then move an appropriate application under Section 144 CPC for restitution of the plaint.

I have heard learned counsel for the parties and perused the relevant material on record.

It would be pertinent to notice here that the expression 'decree', as defined under Section 2(2) of the Code, includes within its ambit an order of rejection of plaint. Therefore, an order of rejection of plaint would be amenable to the statutory remedy of appeal, as has been provided under Section 96 of the CPC.

No doubt, the plaint was rejected during the pendency of the instant revision petition, however, admittedly there was no stay of proceedings before the trial Court operating on the date when the plaint was rejected. Hence, in the aforesaid circumstances, since a decree has been passed, the petitioner would now have to avail of her alternate remedy and as a matter of judicial propriety, this Court would desist

from delving into the merits of the instant petition. Accordingly, the present revision petition is dismissed. The petitioner, however, shall be at liberty to avail of her alternate remedy as provided to her under the Code.

(MANJARI NEHRU KAUL)
JUDGE

December 12, 2022

rps

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