

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

CR No.1647 of 2020

Date of decision: 6th August, 2022

Ravinder Singh Suhag

... Petitioner

Versus

Bijender & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Arun Bansal, Advocate for the petitioner.

MANJARI NEHRU KAUL, J.

Petitioner/defendant has sought to challenge the order dated 22.01.2020 (Annexure P1) passed by the Court of learned Civil Judge (Junior Division), Gurugram vide which his application under Order VII Rule 11 read with Section 151 CPC seeking rejection of the plaint was dismissed.

Learned counsel, inter alia contends that while passing the impugned order (Annexure P1), the trial Court failed to appreciate that respondent/plaintiffs had even previously filed a suit claiming the same very relief which was being sought in the instant suit as well and hence, the instant suit was barred under Order II Rule 2 CPC. He further submits that the earlier suit was withdrawn by the plaintiffs without seeking any liberty to file the instant suit, therefore, subsequent suit would not be maintainable in view of the provisions of Order XXIII

Rule 1 CPC. It has still further been contended that the petitioner was owner in exclusive possession of area measuring 2 Kanals and he had even got a Change of Land Use (CLU) from the authorities concerned. Thus, the respondent/plaintiffs had no concern with the said Khewat/Khata.

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

It would be relevant to observe here that the underlying object behind the provisions of Order VII Rule 11 CPC is to check sham litigation so as to avoid wastage of judicial time. While adjudicating upon the application under Order VII Rule 11 CPC for rejection of a plaint, the Court is just required to restrict its enquiry to the averments made in the plaint, which in turn have to be conjointly read with the documents relied upon by the plaintiff. It would also be apposite to note that a plaint cannot be rejected merely on a partial perusal of the plaint, rather a meaningful reading of the plaint in its entirety would be necessary to arrive at a conclusion as to whether the plaint deserves to be rejected or not. At the stage of deciding an application under Order VII Rule 11 CPC, the defence of the defendant cannot be considered.

Adverting to the case in hand, on a perusal of the plaint (Annexure P2), it cannot be said that the averments made therein do not reveal any cause of action which deserves to be thrown out at the very

outset. Whether or not the respondent/plaintiffs have any right or concern with the suit property would be an issue to be adjudicated upon during trial and at this stage this Court cannot and would loathe to delve into an enquiry as to the truthfulness or otherwise of the averments made in the plaint. In view thereof, the instant petition being hopelessly without any merit stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

August 6, 2022
rps

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