IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

110

CR-2018 of 2019(O&M)
Date of Order: 25.05.2022

Gurpreet **..Petitioner**

Versus

Shanti Sarup @ Hemant Kumar and others **..Respondents**

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Abhilaksh Grover, Advocate, for the petitioner.
Mr. Tarunveer Vashist, Advocate, for respondent no.1.

ANIL KSHETARPAL, J(Oral)

The learned counsel representing the petitioner contends that the trial Court has erred in dismissing the application for rejection of the plaint at the threshold. The trial Court after examining the scope of the decision of application under Order 7 Rule 11 CPC has held that, at this stage, the objections taken by the defendant cannot be adjudicated upon unless the parties are permitted to lead evidence. The learned counsel further contends that a suit for rendition of accounts is not maintainable as defendant no.1 is a sole proprietorship as stated in the plaint by the plaintiff.

On a careful reading of the plaint, it is evident that the parties to the litigation are members of the same family. It has been asserted that in order to facilitate business transactions, other taxation matters and to maintain accounts of the firm as well as for the operation of the bank accounts of the firm, Sh. Om Parkash was shown as sole proprietor of the firm, in papers, documents and records. It has also been asserted that the common predecessor-in- interest of the parties took a plot on rent and constructed the shop from the joint funds.

NARESH KUMAR
2022.06.06 11:55
I attest to the accuracy and
integrity of this document

Such being the position, this Court is also of the view that it would not be appropriate to reject the plaint, at this stage. However, the petitioner shall have liberty to take objections while filing the written statement and pray for framing of issues.

Keeping in view of the aforesaid facts, the revision petition is disposed of.

Needless to observe that the observations made in the impugned order or by this Court shall not be construed as final expression on the maintainability of the suit.

All the pending miscellaneous applications, if any, are also disposed of.

May 25, 2022 **(ANIL KSHETARPAL)**
nt **JUDGE**

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

NARESH KUMAR
2022.06.06 11:55
I attest to the accuracy and
integrity of this document