

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

CR No.3754 of 2022

Date of decision : 9th September, 2022

Ram Chand

... Petitioner

Versus

Harkishan & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. S.K. Bishnoi, Advocate for the petitioner.

MANJARI NEHRU KAUL, J.

The petitioner tenant is impugning the order dated 12.08.2022 (Annexure P-5), vide which the Trial Court dismissed his application filed under Order VII Rule 11 CPC. Learned counsel contends that the impugned order, on the face of it is erroneous and was passed without appreciating the material facts on record. It has been vehemently contended that the Trial Court failed to appreciate that the respondent No.1 infact had no cause of action to file the suit in question as he was neither the owner of the land nor of the tubewell as the electricity connection of the tubewell was in the name of the petitioner and not respondent No.1/plaintiff. Learned counsel has still further submitted that respondent No.1 had intentionally not produced the relevant documents along with the plaint and thereafter coined a totally false and concocted story to harass the petitioner. He, still further argued that the alleged agreement qua the joint right to use tubewell,

which had been produced by respondent No.1/plaintiff, was infact a forged and fabricated document, which was evident from the fact that it was shown to have been executed on 05.06.2009; whereas one of the signatories namely Pala Ram had died much prior thereto in 1994. The counsel still further went on to urge that the written statement (Annexure P-2) which had been filed by defendants No.2 and 3, also supported the aforementioned submissions of the petitioner qua respondent No.1/plaintiff having no cause of action to institute the suit in question. It was lastly also contended that a simplicitor suit for mandatory injunction was not maintainable.

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

The petitioner, while filing his application under Order VII Rule 11 CPC, sought rejection of the plaint on the ground that it did not disclose any cause of action.

It would be relevant to observe here that while deciding an application under Order VII Rule 11 CPC, only the averments made in the plaint as well as the documents which stand annexed along with the plaint, are to be perused and considered as has been held by the Hon'ble Supreme Court also in '**Dahi Ben v. Arvinbhai Kalyanji Bhanusali**' 2020(7) SCC 366.

It needs to be reiterated that a plaint cannot be rejected on a mere formal or partial perusal of the same; rather a meaningful reading of the plaint in its entirety is necessary to arrive at a conclusion as to

whether or not the plaint deserves to be rejected. It also needs to be reiterated that while adjudicating upon an application under Order VII Rule 11 CPC, neither the defence of the defendants nor the documents sought to be relied upon by the defendants can be taken into consideration.

The petitioner and respondent No.1 are brothers. In the instant case, the respondent No.1 has specifically averred that he and the petitioner had applied for a common tubewell connection in the name of the petitioner, which thereafter was installed on the land of respondent No.1. Both of them thereafter started irrigating the land from the common tubewell and were also paying for the electricity charges. However, thereafter due to some differences between the petitioner and respondent No.1, the petitioner after extending threats to respondent No.1 got the electricity connection disconnected. Still further, it has been averred therein that the petitioner had acted maliciously with the active connivance of the official respondents to deprive respondent No.1 of electricity to run the tubewell, which was being used by him for irrigating his agricultural land and which was also a source of drinking water to his family.

On a meticulous perusal of the averments made in the plaint, this Court does not find any force in the submissions made by the learned counsel that respondent No.1 did not have any cause of action to file the suit in question. The plaint does reveal the existence of a cause of action in favour of respondent No.1. Furthermore, at this

stage this Court cannot undertake an inquiry qua the truthfulness or otherwise of the averments made in the plaint nor can it consider the written statement filed by respondents No.2 and 3, much less the other documents relied upon by the petitioner.

As a sequel to the above, there being no merit in the instant petition, the same stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

September 9, 2022
rps

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