In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 6955 of 2018

Date of Decision: 16.08.2023

Tejinder Singh and Another

... Petitioner(s)

Versus

National Small Industries Corporation Limited

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. R.S.Longia, Advocate
for the petitioner(s).

Mr. Saurabh Singla, Advocate
for the respondent.

Anil Kshetarpal, J.

1. The petitioners herein were the plaintiffs before the trial Court. They filed a suit for the grant of decree of declaration to the effect that the decree dated 07.10.2011 passed in the Civil Suit No. 986 dated 09.09.2006 is illegal, null and void, collusive and not binding on their rights.

2. On an application filed by the defendants under Order VII Rule 11 of the Code of Civil Procedure, 1908 (hereinafter referred to as "CPC") to reject the plaint, the trial Court has ordered rejection of the plaint on the basis of Section 47(1) CPC.

3. The learned counsel representing the petitioners contends that the petitioners (the plaintiffs before the trial Court) were not the party to the previous suit. Hence, the observations made by the trial Court are wrong.

4. On the other hand, the learned counsel representing the respondent submits that the petitioners' objection petition was dismissed by

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the Executing Court by a detailed order, hence, a separate suit is not maintainable. However, on a Court question, he admits that this aspect of the matter has not been examined by the trial court.

5. Keeping in view the aforesaid facts, the present revision petition is allowed and the impugned order dated 23.07.2018 is set aside while requesting the trial Court to pass a fresh order on the application under Order VII Rule 11 CPC. The parties, through their learned counsel, are directed to appear before the trial Court on 06.09.2023.

(Anil Kshetarpal)
Judge

August 16, 2023
"DK"

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

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