

2023:PHHC:163300

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

CR-977-2023 (O&M)
Date of decision: 19.12.2023

M/s Liberty Shoes Ltd.

...Petitioner

Versus

M/s Vandana Shoes Pvt. Ltd and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Ms.Sonia G Singh, Advocate for the petitioner

Mr.S.P.Arora and

Mr. Abhivrat Arya, Advocates for the respondents

ANIL KSHETARPAL, J (Oral)

1. This revision petition has been filed by the plaintiff to challenge the correctness of the order passed by the trial court on 27.10.2022. In fact, the trial court has observed as under:-

“Further perusal of the whole record, I am of the view that the present suit can not be decided summarily on the basis of Order 37 CPC, as the evidence is required to prove the assertions made in the plaint.”

2. The learned counsel representing the petitioner (plaintiff) claims that the suit was filed under Order XXXVII of the Code of Civil Procedure, 1908 (hereinafter referred to as ‘CPC’). Despite notice being served to the defendant, he did not apply for leave to defend and therefore, the suit was liable to be decreed forthwith.

3. On the other hand, the learned counsel representing the respondent submits that the suit was not instituted in accordance with the provisions of Order XXXVII CPC.

4. This Court has considered the submissions made by the learned counsel representing the parties. It is evident that the trial court has not recorded any reason before coming to the conclusion that the present suit cannot be decided summarily in compliance with the provisions of Order XXXVII CPC. The court has neither held that the summary suit, as filed, is not maintainable nor has highlighted any procedural defect in the institution of the suit. Before bringing home the point that the suit cannot be decided summarily, the court is required to record reasons. In the absence thereof, it is very difficult for the revisional court to opine about the correctness of the order passed by the trial court.

5. Keeping in view the aforesaid facts, the order dated 27.10.2022 is set aside. The learned trial court is requested to pass a fresh reasoned order, before proceeding with the matter.

6. Disposed of.

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

19.12.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE