

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

**CR No. 1366 of 2023
Date of decision: 09.03.2023**

Ashok Kumar and another Petitioners.

Versus

Janak Raj Respondent.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Atul Goyal, Advocate, for the petitioners.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioners have challenged the order dated 28.03.2022 (Annexure P-6) passed by the Civil Judge (Junior Division), Fatehabad, whereby their application under Order 7 Rule 11 of the Code of Civil Procedure, 1908 ('CPC' - for short), for rejection of the plaint has been declined.

Learned counsel for the petitioners submits that the respondent had filed a suit for permanent injunction restraining the petitioners from interfering in his peaceful possession. There is a dispute with regard to the title of the suit property and, therefore, the suit for permanent injunction simpliciter would not be maintainable.

Heard.

The respondent/plaintiff had filed a suit for permanent injunction to the effect that the petitioners/defendants be restrained from interfering in the peaceful possession of the respondent/plaintiff as owner of the house marked by letters ABCDEFG in the site plan attached with the plaint situated

in the 'abadi deh lal lakeer' of Village Bighar, Tehsil and District Fatehabad, and from raising construction forcefully and illegally without any right, title or interest in the aforesaid house of the respondent/plaintiff. It has been set out in the plaint that the respondent/plaintiff is the owner of the house since the time of his forefathers, as per mutual family settlement dated 14.07.2004. It is manifest from the plaint that it discloses material particulars for cause of action. The plaint would be liable to be rejected under Order 7 Rule 11 of the CPC in the event of non-disclosure of the cause of action. It is well settled that in order to decide an application under Order 7 Rule 11 of the CPC, the plaint has to be seen and the written statement cannot be looked into at this stage. The petitioners/defendants have raised a dispute with regard to ownership of the respondent/plaintiff over the suit land which would be decided after the evidence is led in the course of trial. The application under Order 7 Rule 11 of the CPC cannot be allowed on the stand taken by the petitioners/defendants in the written statement. Therefore, I do not find any infirmity in the impugned order dated 28.03.2022 (Annexure P-6) passed by the trial Court dismissing the application of the petitioners/defendants under Order 7 Rule 11 of the CPC for rejection of the plaint.

Consequently, the petition stands dismissed.

09.03.2023
Ramesh

(ANUPINDER SINGH GREWAL)
JUDGE

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