

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(112)

CR No. 1923 of 2023

Date of Decision : 19.04.2023

Ramesh Khatri

...Petitioner

Versus

Deepak

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Dikshit Khatri, Advocate for the petitioner.

Harsimran Singh Sethi J. (Oral)

The present civil revision petition has been filed challenging the order passed by the trial court dated 12.01.2023 (Annexure P-1) by which the application filed by the defendant under Order 7 Rule 11 CPC has been dismissed as well as order passed in appeal by the lower appellate court dated 16.03.2023 (Annexure P-2) by which the said appeal was dismissed.

Learned counsel for the petitioner submits that the plaintiff is not in a possession of the land in question hence, the suit filed by the plaintiff for permanent injunction is not maintainable. Though, a copy of the suit has not been appended along with the petition but when asked to point out the averments made in the suit, learned counsel conceded the fact that in paragraph 2 of the suit, the possession of the property in question is being claimed to be with respondent-plaintiff.

Keeping in view the fact that there is an averment made in the

suit qua the possession of the property in question, which is good enough to decline the prayer of the defendant in respect of the application filed under Order 7 Rule 11 CPC as, only the averments in the plaint can be taken into account to decide the maintainability of the suit and not any other document.

No other point was argued.

Keeping in view the above, no ground is made out for interference by this Court in the present civil revision petition.

Dismissed.

April 19, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No