

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-2132-2021

Date of decision: 10.04.2023

BIRMATI DEVI AND ANR

...Petitioners

VS

RAJ RANI AND ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: None for the petitioners.

Ms. Ramandeep Kaur, Advocate,
For Mr. Rajesh Goyal, Advocate,
For respondents No.1 and 2.

Mr. S.S.Mann, Additional A.G., Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, under Article 227 of Constitution of India is for setting aside the impugned order dated 10.09.2021 (Annexure P-10) passed by learned Additional Civil Judge, Senior Division, Samalkha vide which application under Order 7 Rule 11 CPC filed by petitioner on 03.08.2021 for rejection of plaint, was dismissed.

2. There is no representation on behalf of petitioners. I have heard learned counsel for respondents and gone through the case file.

3. Order assailed herein is premised, *inter alia*, on the following reasoning:

“5. It is further pleaded that having regard to antecedents of defendant No.2, they cancelled the GPA vide cancellation deed bearing vasika no.19 dated 23.07.2021 thereby withdrawing the rights given to defendant no.1 and 2 for which they have been served legal notice dated 27.07.2021 intimating them about doing so and having left no right, title and interest in the suit land by defendant no.1 and 2. This fact

was even communicated to defendant no.1 and 2 so that plaintiff may not misuse the said GPA detrimental to the interest of plaintiffs. It is alleged that despite of having knowledge of the purposed act of the plaintiffs, defendants no.1 and 2 with intent to sell the suit land in favour of some other persons, reached the office of defendant No.4. On coming to know by the plaintiffs that defendants No.1 and 2 in collusion with defendant No.4 drafted the sale deed for selling the land in question on the basis of said GPA for which they were furnished. This Court is of the considered opinion that the questions involved in the lis requires evidence to be led by both the parties and the grounds mentioned in the Order 7 Rule 11 (d) CPC for rejection of plaint are the matter of evidence, hence, cannot be decided at this pre mature stage, hence, with aforesaid observation, application stands dismissed.”

4. That apart, a perusal of the petition reflects that there are triable issues involved in the case which can only be adjudicated after the respective parties adduced their evidence. Furthermore, the scope of Order 7 Rule 11 to seek rejection of the plaint is confined in a very narrow compass in following cases:-

- a) Where it does not disclose a cause of action;*
- b) Where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;*
- c) Where the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;*
- d) Where the suit appears from the statement in the plaint to be barred by any law;*
- e) where it is not filed in duplicate;*
- f) where the plaintiff fails to comply with the provisions of rule 9:*

5. The application filed by defendants does not meet out any of these grounds. In fact, the entire emphasis of the application is on Section 202 of the Contract Act, which does not bar filing of the suit and the said objection is to be decided after the evidence has been led. Learned trial Court has, therefore, rightly dismissed the application.

6. There is thus no room for interference in the aforesaid valid reasons recorded by learned trial Court, with which I am in agreement. No grounds are made out to interfere. Revision petition is dismissed.

(ARUN MONGA)
JUDGE

10.04.2023
Vandana

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