

CR-5108-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.105

CR-5108-2022

Date of Decision: 05.05.2023

CHETAN JASSAL AND ANOTHER

...Petitioners

Versus

M/S GOPIKA INDUSTRIES AND OTHERS

..... Respondents

CORAM: HON'BLE MRS JUSTICE ARCHANA PURI

Present:- Mr. Aayush Gupta, Advocate for the petitioners.

ARCHANA PURI, J. (ORAL)

Challenge in the present revision petition is to the order dated 18.08.2022 passed by learned Lower Court, whereby an application under Order 7 Rule 11 CPC, filed by the petitioners/defendants No.3 and 4, has been dismissed.

In the application, it was asserted by the petitioners that the respondents/plaintiffs have filed the suit for recovery of Rs.56,12,676/- against the present petitioners, who are impleaded as defendants No.3 and 4 before learned Lower Court and the other defendants, thereby mentioning that defendant No.1 is registered partnership concern. However, now it is submitted that prior to institution of the suit, defendants No.3 and 4, who are petitioners herein, had retired from the partnership and it was thereafter, sole proprietorship of defendant No.2, Pankaj Jha. Further, it is submitted that it is Pankaj Jha, who had conducted proceedings and issued the relevant cheque, which forms the basis of the said suit and relating to the same, a complaint under Section 138 of Negotiable Instruments Act had also been filed.

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However, while passing the impugned order, an observation was made by learned Lower Court about there to be no publication or notice regarding dissolution of the partnership firm. Considering the same, it was observed that issue between the parties is a matter of evidence, which could not be disposed of, at that stage, in that manner and hence, the application was dismissed.

It is now submitted by learned counsel for the petitioners that he does not want to pursue with the present revision petition and seeks permission to withdraw the same, as issues have been framed in the pending suit and issue No.4 reads as hereingiven:-

“4. Whether the defendant no.3 & 4 are not partners of defendant no.1 firm? OPD”

In the given circumstances, a prayer has been made that liberty may be given to file an application before the concerned Court to treat the said issue, as preliminary issue.

In view of the submission, so made, the instant revision petition is hereby dismissed as withdrawn, with the liberty, as prayed for.

The petitioners may file the application, as detailed aforesaid and the same shall be disposed of by the concerned Court, in accordance with law.

05.05.2023
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No