



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3075 of 2024 (O&M)
Date of Order:23.05.2024

Anil Kumar

.Petitioner

Versus

Mata Sati Shri Chandra Ji Jain Sahayak Ashram (Regd.)
and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. G.S.Virk, Advocate, for the petitioner.

ANIL KSHETARPAL, J

1. The petitioner has filed this revision petition to assail the correctness of the trial court's order refusing to allow the defendant's application filed for rejection of plaint under Order VII Rule 11 CPC.

2. The respondents-plaintiffs have filed a suit under Section 6 of the Specific Relief Act, 1963, for restoration of possession which is a form of summary proceedings.

3. The petitioner (defendant in the suit) filed an application under Order VII Rule 11 CPC on the ground that the previous suit filed by the plaintiffs was dismissed and the plaintiffs were never in possession of the property.

4. The trial court has dismissed the application on the ground that the plaintiffs while filing the suit have specifically alleged that they have been forcibly dispossessed within a period of 6 months before the filing of the suit.

5. The learned counsel representing the petitioner submits that the plaintiffs filed a previous suit which was dismissed. Even the first appeal

filed by the plaintiffs was dismissed. He submits that the subsequent suit filed by the plaintiff (respondents herein) is abuse of the process of court.

6. This court has considered the submissions of the learned counsel representing the petitioner.

7. On a perusal of the judgment Annexure P2, passed by the civil court on 21.11.2016, it is evident that while deciding the plaintiffs' previous suit for grant of decree of permanent injunction, there was no specific issue with regard to the plaintiffs being in possession of the property. In any case, the judgment passed in the previous suit is required to be proved. The identity of the property is also yet to be established. According the provisions of CPC, the plaint can be rejected at the threshold only, if from the reading of the plaint, it becomes evident that the suit is barred by law. In the present suit, the aforesaid ground is not established because on a bare reading of the plaint it is clear that the suit is not barred by law

8. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

9. Dismissed.

10. However, the petitioner shall have liberty to make a prayer before the trial court to frame a distinct issue with respect to the submissions made in this revision petition while deciding the suit.

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

May 23, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO