

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

135

CR-4253-2024
Date of Decision: 01.08.2024

Jarnail Singh

....Petitioner

Versus

Darshan Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. K.R.Dhawan, Advocate
for the petitioner.

VIKAS SURI, J.(Oral)

1. The petitioner (Jarnail Singh) through this petition under Article 227 of the Constitution of India assails the order dated 04.07.2024 (Annexure P-10) passed by learned Civil Judge (Junior Division) Moga, whereby the application under Order 7 Rule 11 CPC filed by petitioner/defendant No.1 for rejection of the plaint has been dismissed.
2. Brief facts are that the plaintiffs-respondents filed a suit for permanent injunction restraining the defendants *inter alia* from illegally detaining them or calling them to the police station and then forcibly and illegally obtaining their signatures on blank/stamp papers or any other document by means of coercive and illegal methods. The said suit was withdrawn *qua* defendant No.2 on 03.12.2020.
3. Upon notice of the suit, defendant No.1 suffered a statement on



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23.03.2022 (Annexure P-6) to the effect that he would not harass the plaintiffs illegally and would not recover any amount from the plaintiffs forcibly or illegally, except in due course of law.

4. Thereafter, the case of the petitioner (defendant No.1) is that vide order dated 05.04.2022 (Annexure P-7), the Court proceeded to pass an order on the application under Order 39 Rules 1 and 2 CPC. Aggrieved by the said order, the petitioner (defendant No.1) preferred an appeal which is pending before the first appellate Court.

5. Thereafter, the petitioner filed an application under Order 7 Rule 11 CPC for rejection of the plaint alleging that no cause of action survives to proceed with the suit. The said application was opposed by filing reply and after considering the rival submissions made by the parties, the trial Court vide order dated 04.07.2024 (Annexure P-10) has dismissed the aforesaid application.

6. Aggrieved by the above order, the present petition has been filed challenging the same.

7. I have heard learned counsel for the petitioner and perused the record with his able assistance.

8. Admittedly, the genesis of the application moved by the petitioner for rejection of the plaint is on the ground that the defendant-petitioner has suffered a statement dated 23.03.2022 (Annexure P-6), which is reproduced hereinafter, and in view of the same, no cause of action survives in the case because the threat to the plaintiffs stands eliminated by the aforesaid statement.



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“Statement of defendant No.1 Jarnail Singh S/o Sarban Singh R/o village Sangla, Tehsil Dharamkot.

Stated that I will not harass the plaintiffs illegally. I will not recover any amount from the plaintiffs forcibly or illegally except in due course of law.

RO & AC
Signed

Poonam Kashyap PCS,
CJ(JD)/Moga, 23.03.2022”

9. It is trite law that for rejection of a plaint under Order 7 Rule 11 CPC, it is only the averments made in the plaint that have to be scrutinized to determine whether the plaint discloses causes of action or not. The averments in the written statement or any subsequent material is not relevant. The Hon’ble Supreme Court in ***Church of Christ Charitable Trust & Educational Charitable Society represented by its Chairman vs. Ponniamman Educational Trust represented by its Chairperson/Managing Trustee, (2012) 8 SCC 706***, has held that in order to consider Order 7 Rule 11, the court has to scrutinize the averments/pleas in the plaint. At that stage, the pleas taken by the defendant in the written statement are wholly irrelevant and the matter is to be decided only on the plaint averments. If on a plain reading of the plaint, the cause of action is not made out, then it would be a fit case for the Court to exercise power under Order 7 Rule 11 CPC.

10. In the present case, the plaintiff-respondents have categorically pleaded in their reply filed to the aforesaid application that the petitioner-defendant No.1, who is a retired police officer, is adopting double standards because on one hand, he is making a conscious attempt for rejection of the plaint on the ground that he has already suffered a statement reproduced above



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and on the other hand, he has taken up the matter in appeal against the order passed upon the application under Order 39 Rules 1 and 2 CPC. Moreover, the threats extended by defendant No.1 have never been withdrawn and they still subsists. The apprehension of the plaintiffs is that the petitioner-defendant No.1 is pursuing his time barred cases before the police authorities and with their help is attempting to get extension of his time barred claims.

11. Learned counsel for the petitioner has not been able to dispute that on a plain reading of the plaint (Annexure P-4), the cause of action has been pleaded in clear terms.

12. In the light of aforesaid and the well settled principles of law, this Court does not find any substance in the revision petition. Accordingly, the present petition is dismissed.

August 01, 2024
Varinder

(VIKAS SURJ)
JUDGE

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