

**126 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-5432-2023 (O&M)

Date of decision: 19.03.2024

M/s Countrywide Promoters Pvt. Ltd.and another

....Petitioners

Versus

Freedom Park Life Apartment Owner's Association (Regd) and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Adarsh Jain, Advocate for the petitioners

Mr. Gurmandeep Singh Sullar, Advocate

Ms.Pooja Ajaypal, Advocate

Ms.Devaki Anand Sullar, Advocate

Mr. Iranpreet Singh, Advocate

Ms.Diksha Garg, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

1. This revision petition has been filed to challenge the correctness of the trial court's order rejecting the petitioner's application under Order VII Rule 11 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') to reject the plaint at the threshold. The Resident Welfare Association filed a suit for declaration on 02.09.2015. It is claimed in the suit that the plaintiff -Association is registered under the Haryana Apartment Ownership Act, 1983. After filing of the written statement, the issues were framed. The petitioner objected to the maintainability of the suit in the year 2023. The

petitioner filed an application under Order VII Rule 11 CPC on the ground that the Association has been subsequently registered on 17.10.2021 under the Haryana Societies Registration Act, 2021.

2. Learned trial court has refused to reject the correctness of the aforesaid order challenged before this Court.

3. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

4. Learned counsel representing the petitioners contends that the suit on behalf of the Association was not maintainable unless the Association is registered under the Societies Registration Act, 1860. He submits that the registration will have prospective effect and thus, will not validate the filing of the suit.

5. This Court has considered the submissions made by the learned counsel representing the parties.

6. Under Order VII Rule 11 CPC, a plaint can be rejected only if from the reading of the plaint, the court comes to a conclusion that the suit is barred by any law. At that stage, the defence of the defendants is not required to be considered. Learned counsel representing the respondents has disclosed that the plaintiffs have already led their substantial evidence. It has also been disclosed that on the objection of the petitioner, a distinct issue on this aspect, has already been framed by the trial court.

7. Keeping in view the aforesaid facts, no ground to interfere is made out.

8. Hence, dismissed.

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

19.03.2024
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Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No

(ANIL KSHETARPAL)
JUDGE