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

CR-5705-2024

Date of decision: 27.11.2024

Pardeep Sharma

...Petitioner

Versus

Sharma Rice Mills, Bhawanigarh Road, Samana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Alok Mittal, Advocate for the petitioner.

Mr. Ramandeep Singh, Advocate for respondent No.1.

Mr. P.S. Bhandari, AAG, Punjab
for respondent Nos.2 and 3.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 13.08.2024 (Annexure P-5) passed by the Civil Judge (Junior Division), Samana, whereby an application for rejection of plaint under Order VII Rule 11 CPC has been dismissed.

2. On 03.10.2024, this Court had passed the following order:-

“Inter alia contends that in the present case, one of the objections taken by the petitioner in the application filed under Order 7 Rule 11 CPC has not even been decided by the Civil Judge (Junior Division), Samana and it had only been observed that the said question could be decided at any stage and that respondent No.1 would have to comply with it when the said



order would be passed by the Court. It is submitted that once a plea has been raised by the petitioner in an application under Order 7 Rule 11 CPC, it is incumbent upon the Court to decide the same. It is pointed out that it had been observed by the Court that the said application stands dismissed and disposed of, although the said two terms are contradictory. It is further submitted that at any rate, the impugned order deserves to be set aside and the matter deserves to be decided afresh.

Notice of motion for 24.10.2024.

To be taken up in the urgent list.

Liberty is granted to the petitioner to serve respondent No.1 through dasti process as well as through counsel appearing before the trial Court.

It would be open to the petitioner to file a written statement. Filing of the said written statement would not in any way be deemed to be an estoppel against the petitioner from pursuing the present revision petition or the application filed under Order 7 Rule 11 CPC.”

3. Learned counsel for the petitioner has reiterated his submissions as were made on 03.10.2024 and has submitted that at any rate, the impugned order deserves to be set aside and the matter deserves to be decided afresh.

4. Learned counsel for respondent No.1 has submitted that in case the matter is remanded, the same should not be construed as an expression of opinion on the merits of the case and counsel for the plaintiff should be granted full opportunity to address arguments opposing the said application filed under Order VII Rule 11 CPC.

5. Keeping in view the abovesaid facts and circumstances and also the facts which have been noticed in order dated 03.10.2024, this Court is of the view that on the aspect of Court fee, an affirmative finding was required to be given by the trial Court and thus, the impugned order is set aside and the



trial Court is directed to decide the application filed Order VII Rule 11 CPC afresh, as expeditiously as possible.

6. It is made clear that this Court has not opined on the merits of the case and it would be open to the trial Court to decide the application filed under Order VII Rule 11 CPC afresh and independently, after taking into consideration the arguments raised by both the parties.

7. Learned counsel for respondent No.1 has pointed out that in the present case, till date, the written statement has not been filed and the next date of hearing before the trial Court is 02.12.2024.

8. Learned counsel for the petitioner has submitted that they would file written statement on or before 02.12.2024 however that should not be construed as an estoppel from pursuing the application under Order VII Rule 11 CPC.

9. Accordingly, the petitioner is directed to file the written statement on or before 02.12.2024. Filing of the written statement on 02.12.2024 would not be construed as an estoppel against the petitioner from pursuing the application filed under Order 7 Rule 11 CPC.

10. In view of what has been observed above, the present revision petition is disposed of.

27.11.2024

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No