



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

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CR-6130-2024 (O&M)
Date of decision : 22.10.2024

GAURAV KUMAR

... PETITIONER

VERSUS

MAHENDER SINGH AND ANR

...RESPONDENTS

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. S.K. Bishnoi, Advocate for the petitioner.

ALKA SARIN, J. (ORAL)

1. The present petition has been filed challenging the impugned order dated 26.07.2024 (Annexure P-4) passed by the Civil Judge (Junior Division), Rewari whereby an application under Order 7 Rule 11 of the Code of Civil Procedure, 1908 seeking rejection of the plaint has been dismissed.

2. The brief facts relevant to the present *lis* are that the plaintiff-respondent No.1 herein filed a suit for recovery of Rs.4,50,000/- against the defendant-petitioner averring therein that an amount of Rs.5,00,000/- was paid to the defendant-petitioner for getting Mohit a job. An amount of Rs.5,00,000/- was collected on 18.10.2020 by the defendant-petitioner herein. It was further averred in the plaint that when the needful was not done, the plaintiff-respondent No.1 demanded the money back. The defendant-petitioner herein gave Rs.50,000/- in cash and the remaining amount was given by way of a cheque which was deposited in the bank

account of the nephew of the plaintiff-respondent No.1. However, the same was dishonoured. It was further averred that the amount was thereafter demanded by way of a legal notice served upon the defendant-petitioner. Since he refused to give the money, the present suit was filed. During the pendency of the suit an application was filed under Order 7 Rule 11 read with Section 151 CPC for rejection of the plaint averring therein that the entire amount stands paid and that the cheque was given only as a security and that no legal right has accrued to the plaintiff-respondent No.1. Reply was filed to the said application. Vide the impugned order dated 26.07.2024 the said application has been dismissed by the Trial Court. Hence, the present revision petition.

3. Learned counsel for the defendant-petitioner would contend that if the cheque which was deposited by the nephew in his account was dishonoured, the remedy would lie elsewhere and the civil suit would not be maintainable. It is further the contention that no right accrues in favour of the plaintiff-respondent No.1 as the cheque was not issued to him.

4. Heard.

5. In the present case the suit has not been filed only on the ground that the cheque has been dishonoured. The suit has been filed for recovery of Rs.4,50,000/- which the defendant-petitioner is alleged to owe to the plaintiff-respondent No.1. The suit has been filed for recovery and not on account of dishonouring of the cheque. From a meaningful reading of the plaint it cannot be said that no case is made out. A perusal of the application itself reveals that it has been averred by the defendant-petitioner himself that

all payments have been cleared by him. That being so, the matter can be decided only once the parties lead their respective evidence. At this stage no ground is made out to entertain the application under Order 7 Rule 11 CPC.

6. The present revision petition stands dismissed. Pending applications, if any, also stand disposed off.

22.10.2024
Ankur

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO