

**CR-7139-2024****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****(139)****CR-7139-2024****Date of Decision: - 09.12.2024****Meenu****....Petitioner****Versus****Omkaran****.....Respondent****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Ms. Apoorva Arya, Advocate,
for the petitioner.

**********VIKAS BAHL, J. (ORAL)**

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 23.02.2024 (Annexure P-4) passed by the Additional Civil Judge (Senior Division), Sohna, vide which the application filed under Order 7 Rule 11 read with Section 151 CPC (Annexure P-3) for rejection of plaint dated 26.06.2020 (CS-121 of 2020) (Annexure P-1) of the respondent has been dismissed.

2. Learned counsel for the petitioner has submitted that in the present case, the suit filed by the respondent for specific performance of agreement to sell and for permanent injunction deserves to be rejected on the ground of limitation and also on the ground that the agreement to sell is in fact a forged and fabricated document.

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3. This Court has heard learned counsel for the petitioner and has perused the paper-book and is of the opinion that the present revision petition is meritless and deserves to be dismissed and the impugned order dated 23.02.2024 passed by the Additional Civil Judge (Senior Division), Sohna, vide which the application filed under Order 7 Rule 11 read with Section 151 CPC for rejection of plaint (Annexure P-1) of the respondent has been dismissed, is in accordance with law and deserves to be upheld, for the reasons which are detailed herein after.

4. The respondent had filed a suit for specific performance alongwith consequential relief of permanent injunction on 26.06.2020 on the plea that the present petitioner/defendant had agreed to sell her property to the plaintiff vide an agreement to sell dated 18.07.2016 for a total consideration of Rs.15,00,000/- and out of the said amount, an amount of Rs.7,98,000/- as mentioned in the agreement to sell was paid as earnest money and the last date for the execution and registration of sale deed was fixed as 17.07.2017. It was further the case of the respondent/plaintiff that the plaintiff was always ready and willing to perform his part of the contract and it was the defendant who had failed to perform his part of the agreement and on 17.07.2017, the plaintiff had visited the office of Sub-Registrar office Wazirabad alongwith the balance sale consideration, stamp charges etc. and had remained there throughout the working hours but the defendant had not come present and accordingly, the plaintiff had got his affidavit marked, which was duly attested by the Sub-Registrar/Executive Magistrate, Sohna. It was also

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pleaded that the defendant had become dishonest and wanted to sell the suit property to a third person and when the plaintiff had approached the defendant, he finally refused to admit the claim of the plaintiff on 16.06.2020 and accordingly, the suit was filed and a Court fee of Rs.81,300/- was affixed on the plaint.

5. The present petitioner filed an application under Order 7 Rule 11 read with Section 151 CPC, which application was dismissed by the trial Court vide order dated 23.02.2024 by observing that that the plea of limitation raised by the defendant was not tenable because as per the Limitation Act, 1963, a suit for specific performance can be filed within three years from the date fixed for performance of that agreement and since the target date in the present case was fixed as 17.07.2017 and the suit had been filed within three years from 17.07.2017, thus, the ground of limitation was not available and the suit had been filed within the period of limitation. The other pleas with respect to cause of action and frivolous pleadings were also rejected and the application was dismissed and the case was adjourned to 05.04.2024 for filing the written statement. It is the said order dated 23.02.2024 which has been challenged before this Court after a delay of more than nine months and apparently only to delay the proceedings.

6. It is a matter of settled law that for considering an application under Order 7 Rule 11 CPC only the pleadings in the plaint are required to be taken into consideration and not the defence sought to be raised by the defendant. The plea of limitation sought to be raised by the counsel

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for the petitioner is on the face of it meritless, as has been observed by the trial Court, inasmuch as, the last date fixed for execution and registration of the sale deed as per the plaint was 17.07.2017 and the suit had been filed within a period of three years from the said date and the said two dates have not been disputed before this Court and thus, it is apparent that the suit had been filed within the period of limitation. The second plea sought to be raised by learned counsel for the petitioner to the effect that the agreement to sell is a forged and fabricated document, is a matter of trial and the same cannot possibly be adjudicated upon, in an application under Order 7 Rule 11 CPC.

7. Keeping in view the above-said facts and circumstances, this Court is of the view that the impugned order has been correctly passed and deserves to be upheld and the revision petition filed by the petitioner being meritless, deserves to be dismissed and is accordingly dismissed.

December 09, 2024
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes