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

CR-4633-2015

Date of decision : 22.01.2025

HARYANA STATE AGRICULTURE MARKETING BOARD & ANR

....Petitioners

Versus

JAGDISH KUMAR & ANR

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Pritam Singh Saini, Advocate with
Ms. Vamika Johar, Advocate
for the petitioners.

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

PANKAJ JAIN, J. (ORAL)

Defendants are in revision against order dated 01.05.2015 passed by Civil Judge (Junior Division), Ratia whereby application filed by the defendants under Order 7 Rule 11 CPC seeking rejection of the plaint, has been declined.

2. Plaintiff filed suit for recovery of Rs. 16,95,645/- claiming refund of the part payment made by the plaintiff after having been declared successful bidder in a tender floated by the petitioners/defendants.

3. Application was moved under Order 7 Rule 11 CPC seeking rejection of the plaint claiming that the plaintiff earlier filed civil writ petition before Punjab & Haryana High Court. The same was withdrawn in



terms of the compromise. In terms of the compromise, plaintiff was paid an amount of Rs. 12,35,365/-. The plaintiff has concealed the said material fact from the Court and thus the plaint is liable to be rejected.

4. The application stands declined by Civil Judge (Junior Division), Ratia holding that merely for the reason that the plaintiff invoked writ jurisdiction earlier in time, the suit cannot be held to be barred under Order 7 Rule 11 CPC.

5. Mr. Saini while assailing the impugned order submits that the concealment at the hands of the plaintiff is evident from the order dated 27th of July, 2010, placed on record as Annexure P-2. The plaintiff withdrew the writ petition in view of the compromise vide Annexure P-2. In terms of the compromise, payment of Rs.12,35,365/- was received by the plaintiff. The document is on record as Annexure P-3. He further refers to the averments made in the plaint, Annexure P-4, wherein plaintiff admitted refund of Rs.12,35,365/-. He thus submits that once the acceptance of refund is admitted, the present suit seeking recovery was not maintainable.

6. Per contra, Mr. Zorawar Singh, Advocate representing respondent No.1/plaintiff submits that by way of impugned order, application filed under Order 7 Rule 11 CPC has been adjudicated by the Civil Court. At this stage, the Trial Court was required to test the application on the basis of pleadings raised in the plaint. Even if part payment is refunded, the same would not bar the civil suit filed by the plaintiff. He



submits, refund of part payment has been disclosed in plaint and thus averment *qua* concealment is against the record.

7. I have heard counsel for the parties and have gone through records of the case.

8. The best case in favour of the defendants is that the plaintiff filed the writ petition, withdrew the same but did not disclose the same in plaint. Even if the same is taken to be true, issue is whether the same can entail rejection of plaint in terms of Order 7 Rule 11 CPC, which reads as under:

11. Rejection of plaint.— The plaint shall be rejected in the following cases:— (a) where it does not disclose a cause of action;

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

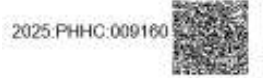
(c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

1 [(e) where it is not filed in duplicate;]

2 [(f) where the plaintiff fails to comply with the provisions of rule 9:]

3[Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed



by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.]

9. Concealment is a question to be tested after taking into consideration the evidence adduced by the parties. In case defendant proves that plaintiff is guilty of concealment of a material fact, trial court may deal in accordance with law with strict hands. But in order to seek rejection of plaint, defendant needs to make its case fall within four corners prescribed by Order 7 Rule 11 CPC. Concealment is not one of the grounds enumerated under the provision which shall invite rejection of the plaint. Otherwise also, Mr. Saini has not been able to prove from the contends of the plaint itself, which is the only consideration at this stage that plaintiff is guilty of concealment. Record beyond plaint cannot be considered. There is nothing pointed out by Mr. Saini that would fall within the parameters of Order 7 Rule 11 CPC to upset the well reasoned order passed by the Trial Court.

10. In view of above, this Court does not find any reason to interfere in a well reasoned order passed by the Trial Court. Resultantly, the present revision petition is dismissed.

January 22, 2025

(Pankaj Jain)
Judge

Dpr

Whether speaking/reasoned : Yes
Whether reportable : Yes