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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-561-2023 (O&M)
Date of decision: 23.01.2025

M/s Narang Sale Corporation and others ...Petitioners

Versus

Bank of Baroda and others ...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. N.K. Verma, Advocate for the petitioners.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India read with Section 151 CPC against the order dated 12.01.2023 (Annexure P-11) vide which the Civil Judge (Junior Division), Jalandhar had allowed the application filed under Order 7 Rule 11 CPC by respondent No.3/defendant No.3 and had rejected the plaint of the petitioners.

2. The Madras High Court vide ***judgment dated 12.07.2002 passed in CRP(PD) No.3576 of 2001 titled as K.S. Geetha Vs. Stanleybuck***, had observed that once the plaint is rejected on the application moved under Order 7 Rule 11 CPC and there is nothing pending in the Court then the same is a formal expression of an adjudication, which so far as regards the Court expressing it, conclusively determines the rights of the parties and after taking into consideration Section 2 of the Code of Civil Procedure, which defines the term “decree” and states that the said decree shall be deemed to include rejection of the plaint, held that in such a situation, an appeal would lie under Section 96 of the Code and had further observed that in case the plaint has



been rejected, only remedy for the plaintiff, who is aggrieved, is to file an appeal and not to file a revision petition. Relevant portion of the said judgment is reproduced hereinbelow:-

“xxx xxx

8. *At the time of hearing, the learned counsel for the respondents/defendants raised a preliminary objection as to the maintainability of the Civil Revision Petition. The learned counsel contended, as against the order of rejection of a plaint, appeal only lies and that being so, this revision petition is liable to be dismissed. Per contra, the learned counsel for the petitioner would submit that the Courts have held that a Civil revision petition is also maintainable and that there is no substance in the preliminary objection as put forward by the learned counsel for the respondents. In the event of this Court coming to the conclusion that the preliminary objection raised by the respondents is sustainable then it will be a futile exercise to refer to and consider the other points raised. In this view of the matter, this Court desires to consider that issue first, before considering the other issues that arises for consideration.*

9. *Order 7 Rule 11 of Code of Civil Procedure deals with rejection of plaint. Once the plaint is rejected, then obviously nothing is pending before the Court. That order is formal expression of an adjudication, which so far as regards the Court expressing it, conclusively determines the rights of the parties. In fact, Section 2 of the Code of Civil Procedure which defines the term decree specifically states that the decree shall be deemed to include rejection of the plaint. Section 96 of the Code deals with appeal from original decrees. The claim of the respondents is that the order rejecting plaint being the decree by the trial Court, the only remedy, if plaintiff is aggrieved, is by way of filing an appeal and not by filing revision petition.*

10. *The learned counsel would place strong reliance on the ruling of the Full Bench of this Court reported in AIR 1952*



Madras 86 ([Satyanarayanacharyulu v. Ramalingam](#))(FB). In that case, the petitioners filed a suit in the Subordinate Court for declaration and for other reliefs and paid a fixed Court fee of Rs.100/- under Sec.17-A of Schedule II, Court Fees Act valuing the suit for the purposes of jurisdiction at Rs.3,600/-. The question arose was whether the Court fee paid has been correct and after considering the objection the Subordinate Judge came to the conclusion that the suit has been grossly under valued and directed the petitioner/plaintiff to pay an additional Court fee of Rs.400/-. The order directing payment of additional Court fee was made on 14.3.1947 and a period ten days time was given for payment of the deficit court fee. The suit was adjourned to 24.3.1947 and by that time, as the deficit court fee was not paid as per the order dated 14.3.1947, the plaint was rejected. A revision was filed against the order dated 24.3.1947. The Full Bench approving the view taken in an earlier ruling reported in 1942 (1) MLJ 569 ([Ratnavelu Pillai v. Varadaraja Pillai](#)), ruled that if the order directing payment of additional Court fee was not complied with and it was followed by an order dismissing the suit, a revision would not be maintainable and the remedy is only by way of an appeal against the decree. Or in other words, the Court ruled that once a plaint is rejected, the remedy for the plaintiff is only to file an appeal and not a revision petition.

A learned single Judge of this Court had occasion to consider a similar question and after considering the ruling of the Full Bench referred supra as well as other rulings viz., AIR 1924 Oudh 413 ([Harihar Bakhsh Singh v. Jagannath Singh](#)); AIR 1956 Hyderabad 133 ([Radhakishen v. Wali Mohammed](#)); and AIR 1957 Pepsu 14 ([Badri Nath v. State of Pepsu](#)), clearly ruled that both from the section and those decisions it is clear that only appeal will lie against rejection of plaint and it is not limited to such cases wherein the plaint was rejected for the reasons stated under [Order 7, Rule 11 of Code of Civil Procedure](#).

In a recent ruling of this Court reported in 1998(3) CTC



165 : (1999 AIHC 470) (Nesammal v. Edward) a learned single Judge referred extensively the various rulings including AIR 1976 Madras 289 (R.Shanmughavelu Pillai v. R.Karuppannan Ambalam) and concurred with it.

11. Thus, the legal position from the above rulings is that as against the order rejecting the plaint, only an appeal lies and not a revision.

Xxx xxx”

3. Learned counsel for the petitioners has submitted that in view of the above said judgment, the petitioners be permitted to withdraw the present revision petition with liberty to file an appeal before the First Appellate Court. It is further submitted that the Coordinate Bench of this Court while issuing notice of motion had passed the following order:-

“Present: Mr. Ankush Verma, Advocate for the petitioner

CM-2018-CII-2023:

For the reasons stated in the application, the same is allowed and, with the consent of the learned counsel, the main case is taken on Board today itself.

CR-561-2023:

Learned counsel for the petitioner would contend that the Trial Court while allowing the application under Order 7 Rule 11 CPC has instead of confining itself to the contents of the plaint has considered the averments made in the application under Order 7 Rule 11 which is against the law.

Notice of motion returnable 24.08.2023.

Meanwhile, operation of the impugned order shall remain stayed.

03.02.2023”

4. Learned counsel for the petitioners has submitted that in view of the above said order, the suit has been continuing. It is further submitted that although respondent Nos.1 to 3 have been served, however, no one has put in



appearance on their behalf. Learned counsel for the petitioners has prayed that the said interim order be continued for a period of 15 days so as to enable the petitioners to file an appeal before the First Appellate Court. It is further prayed that since the petitioners were pursuing the present remedy thus, in case the said appeal is filed within a period of 15 days from today, then the same should not be rejected solely on the ground of limitation.

5. Keeping in view the abovesaid facts and circumstances and law laid down in the above said judgment, the present revision petition is dismissed as withdrawn with liberty to the petitioners to file an appeal against the impugned order in accordance with law. The order dated 03.02.2023 passed by the Coordinate Bench of this Court is ordered to be continued for a period of 15 days from today so as to enable the petitioners to file the said appeal.

6. It is made clear that the passing of the interim order should not be construed as an expression of opinion on the merits of the case and it would be open to both the parties to raise all the pleas in support of and against the appeal as well as in support of and against the continuation of the said order, which is to be considered by the First Appellate Court. It is further made clear that in case the said appeal is filed within a period of 15 days from today, then the First Appellate Court is directed not to dismiss the same solely on the ground of limitation.

7. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

23.01.2025*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No**