



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

CR-3198-2019(O&M)

Date of Decision: July 25, 2025

Gurbakshish Gill

...Petitioner

Versus

Birjinder Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Petitioner-in-person.

Mr.Damanjit Singh Sandhu, Advocate
for respondent No.1.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 21.02.2019 passed by learned trial Court, whereby, an application filed under Order VII Rule 11 CPC, was dismissed.

Upon notice issued, contesting-respondent made appearance through counsel.

The petitioner-in-person as well as learned counsel for respondent No.1, heard.

In the suit filed, at the instance of the contesting respondent- Birjinder Singh, for seeking declaration, while asserting his right to the suit property, the petitioner (who is defendant No.3 before trial Court) had filed



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an application for seeking rejection of the plaint, thereby, taking objections to the extent of Court fee annexed.

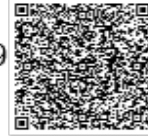
However, after hearing both the counsel for the parties and recording their contentions, vide impugned order, learned trial Court had made observation, in paragraph No.4, which is reproduced, as herein given:-

“4. I have heard learned counsel for both the parties and have perused the case with minute details. After going through the written arguments submitted by defendant No.3, this Courts is of the considered opinion that fact so alleged by defendant No.3 in the present application involves a matter of law, which would be decided after leading evidence of both the parties. Accordingly, the application in hands stands dismissed. XXX....”

Vide same order, only on the basis of the written statement filed, issues were re-framed and the case was fixed for remaining evidence of the plaintiff.

Being aggrieved by the order of dismissal of the said application, wherein, no reason, as such was assigned for the dismissal of the application, the petitioner had filed the present revision petition.

It is pertinent to mention that as observed aforesaid, though the contentions were recorded, but no reasoning, as such, was recorded by the Court for dismissal of the application. In fact, it was observed that the present application involves a matter of law, which would be decided after

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leading evidence of both the parties. Accordingly, the application was dismissed.

However, the process followed by learned trial Court is palpably wrong and erroneous.

Order VII Rule 11 CPC lays down an independent remedy, made available to the defendant to challenge the maintainability of the suit itself, irrespective of his right to contest the same on merits. The law ostensibly does not contemplate, at any stage, when the objections can be raised and also does not say in express terms, about filing of the written statement. Instead, the word '**shall**' is used, clearly implying there that it casts a duty on the Court to perform its obligation in rejecting the plaint, when the same is hit by any of the infirmities, provided in the four clauses of Rule 11, even without intervention of the defendant...."

Once an application is filed under Order VII Rule 11 CPC, the Court has to dispose of the same before proceeding with the trial. However, the procedure adopted by learned trial Court is not warranted under law. Without disposing of the application under Order VII Rule 11 CPC, the Court cannot proceed with the trial. In this view of the matter, the impugned order is only to be set aside, more particularly, when no reasoning, as such, has been given, while dismissing the application.

In the given circumstances, the present revision petition, as such, is allowed and the impugned order is set aside. The case is remanded back to the trial Court to decide the application under Order VII Rule 11 CPC, at first instance and the entire exercise be conducted by learned trial



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Court, relating to the disposal of the said application, within a period of two months, from the date of receipt of certified copy of this order.

July 25, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No