



CR No.5822 of 2023

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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Civil Revision No.5822 of 2023
Date of decision: December 3rd, 2025

Sanjay Gupta and others

.....Petitioners

Versus

Attar Chand and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Chetan Mittal, Senior Advocate
with Mr. Mayank Aggarwal and
Mr. Avichal Sharma, Advocates
for the petitioners.

Mr. Vishal Garg Narwana
and Mr. Shubham Aggarwal, Advocates
for respondents No.1 to 3.

Mr. Raj Pratap Singh Brar, Assistant Advocate General,
Haryana.

VIKAS BAHL, J. (ORAL)

1. This is a civil revision petition under Article 227 of the Constitution of India for setting aside the impugned order dated 06.09.2023 (Annexure P-8) passed by the Civil Judge (Junior Division), Panipat, whereby the application filed by the petitioners under Order VII Rule 7 CPC has been dismissed.

2. On 03.10.2023, a coordinate Bench of this Court had passed the following order:

*“Present: - Mr. Chetan Mittal, Sr. Advocate,
with Mr. Mayank, Advocate,
for the petitioners.*

*Mr. Nishant Raj, Advocate,
for caveator/respondents No.1 to 3.*

Mr. Rajbir Singh, DAG, Haryana.



Instant revision petition has been preferred by petitioner-defendants impugning the order dated 06.09.2023 (Annexure P-8) passed by the Court of learned Civil Judge (Junior Division), Panipat, in Civil Suit No. 153 of 2023 titled 'Attar Chand and others v. District Town and Country Planning, Panipat and others', dated 17.05.2023, whereby application dated 29.05.2023 filed by petitioner-defendants No.5, 6 and 8 under Order 7 Rule 11 CPC, has been dismissed.

Learned Senior Counsel for the petitioners submits that plaintiff-respondents No.1 to 3 had earlier filed a suit bearing No.32 of 2020 dated 20.08.2020 for declaration and permanent injunction against the petitioners with regard to MoU dated 07.02.2018 wherein it was claimed by the plaintiffs that there was certain dispute with regard to the payments alleged to be made by the present petitioners as per the terms of the said MoU. In the said suit an application under Order 7 Rule 11 CPC was filed by the present petitioners on various grounds, including the ground that the plaintiffs have not affixed the ad valorem court fee. The said application was disposed of vide order dated 04.08.2021 by holding that the plaintiffs being executants of the MoU and have sought its cancellation, therefore, they are bound to affix ad valorem court fee and consequently they were directed to affix ad valorem court fee on the amount of MoU i.e. at Rs.60 crores. However, without affixing the ad valorem court fee as ordered vide order dated 04.08.2021, respondents No.1 to 3 plaintiffs filed second suit bearing Civil Suit No.37 of 2021 dated 02.09.2021 for recovery of Rs 44,76,70,071/-along with upto date interest on the basis of the same MoU dated 07.02.2018. During the pendency of the second suit, an application was filed by plaintiff/respondents No.1 to 3 for



withdrawal of the first suit. Prayer made in the said application was opposed by the defendants as the ad valorem court fee as ordered vide order dated 04.08.2021 was not affixed by the plaintiffs. However, the suit was dismissed as withdrawn vide order dated 11.11.2021 and neither any liberty was sought for filing a fresh suit on the same cause of action nor the same was granted. He further submits that yet another suit bearing Civil Suit No.718 of 2023 dated 17.05.2023 was filed by the respondent-plaintiffs, which was a simplicitor suit for permanent injunction. An application under Order 7 Rule 11 read with Section 151 CPC for rejection of the plaint was filed by the present petitioners, however, the same has been dismissed vide impugned order dated 06.09.2023. Learned Senior Counsel submits that the third suit was barred under the provisions of Section 20-B of the Specific Relief Act, 1963 as firstly the same was not maintainable and secondly, the same could have only been tried by the Special Court as notified by the High Court in terms of notification dated 30.08.2019, which reads as under: -

“HARYANA GOVERNMENT

ADMINISTRATION OF JUSTICE DEPARTMENT

Notification

The 30th August, 2019

No.S.O.67/C.A.47/1963/S.20B/2019. In exercise of the powers conferred by section 20B of the Specific Relief Act, 1963 (Central Act 47 of 1963), the Governor of Haryana, in consultation with the Chief Justice of Punjab and Haryana High Court, hereby designates the Court of Civil Judge (Senior Division) at District Headquarter and the Court of Additional Civil Judge (Senior Division) at Sub-Divisional level in each District in the State of Haryana to be a Special Court, within the local limits of the area to exercise jurisdiction and to try a suit under the said Act in respect of



contracts relating to infrastructure projects.

NAVRAJ SANDHU

*Additional Chief Secretary to Government, Haryana.
Administration of Justice Department.”*

*He submits that since the suit is in respect of contract relating to infrastructure project, therefore, learned Civil Judge (Junior Division), Panipat, had no jurisdiction to entertain and adjudicate the said suit. He further submits that since neither any liberty was sought for filing the fresh suit nor the same was ever granted by the Court while allowing the withdrawal of the first suit, therefore, the instant suit was not maintainable in terms of Order 23 Rule 1 read with Rule 3(b) and Order 2 Rule 2 CPC. In support of the said contentions, he has placed reliance upon the judgments of the Hon'ble Supreme Court in **N.V. Srinivasa Murthy v. Mariyamma, (2005) 5 SCC 548** and **Sona v. Raj Rani, 2012 SCC OnLine Del 5942**. He also submits that in terms of Section 41(h) of the Specific Relief Act, a simplicitor suit for injunction is not maintainable as efficacious remedy is available to the plaintiff in the form of suit for recovery.*

Notice of motion.

Mr. Nishant Raj, Advocate, who is present in Court, accepts notice on behalf of respondents No.1 to 3.

Mr. Rajbir Singh, DAG, Haryana, accepts notice on behalf of respondents No.4 to 7, 9 and 10.

Let notice be served upon respondent No.8 for 13.12.2023.

In the meanwhile, trial Court shall adjourn the proceedings beyond the date fixed in the present case.”



3. Learned senior counsel for the petitioners has submitted that the present suit is a third suit filed by the respondents and the same is barred under Order II Rule 2 CPC as well as under the provisions of Order XXIII Rule 1 CPC. It is further submitted that the present suit is also barred by limitation and also barred in view of the provisions of Section 41(e) and (h) of the Specific Relief Act. It is submitted that the trial Court had made observations in the impugned order while rejecting the application filed by the petitioners under Order VII Rule 11 CPC which are against law.

4. Learned counsel for the contesting respondents, on the other hand, has submitted that the suit filed by respondents No.1 to 3 is not barred under any of the said provisions and has further submitted that the said objections can only be considered after issues are framed and cannot be fully and properly adjudicated at the stage of proceedings under Order VII Rule 11 CPC. It is submitted that the petitioners have not even filed written statement and no issues have been framed in the present case.

5. During the course of arguments, it has been fairly stated on behalf of the petitioners and the contesting respondents that the petitioners would file the written statement and in case the abovesaid objections are taken in the written statement, then issues regarding the same would be framed, in addition to the other issues which arise for adjudication and the issues on the abovesaid objections would be treated as preliminary issues.

6. On account of the consensus having been arrived, the present revision petition is disposed of with the following directions/observations:

(i) The impugned order dated 06.09.2023, in which observations



have been made with respect to various objections raised by the petitioners, is set aside, however, the setting aside of the said order would not require the trial Court to decide the application under Order VII Rule 11 CPC afresh.

- (ii) The petitioners would file the written statement within a period of one month from today and in case, in the said written statement, the objections with respect to the suit being barred under Order II Rule 2 CPC, Order XXIII Rule 1 CPC, limitation and Section 41(e) and (h) of the Specific Relief Act are raised, then the issue on each of the said aspects, in addition to the other issues, would be framed.
- (iii) The issues framed on the abovesaid four aspects would be treated as preliminary issues and would be decided prior to deciding the other issues.
- (iv) It is made clear that this Court has not opined on the merits of the said issues and it would be open to the parties to lead all evidence on the said issues and the trial Court would decide the said issues as preliminary issues, independently, after taking into consideration the documents and evidence produced by the parties on the said four issues.

December 3rd, 2025
Puneet

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No