



CR-2226-2016 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(237)

CR-2226-2016 (O&M)

Date of decision: - 18.02.2026

Sandeep Kumar

....Petitioner

Versus

Sarvan Singh

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Pawan Kumar Hooda, Advocate, and
Mr. Ankit Kumar, Advocate,
for the petitioner.

None for the respondent.

VIKAS BAHL, J. (ORAL)

1. Present civil revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 11.02.2016 passed by the District Judge, Panipat, whereby the appeal filed by the respondent against the order dated 19.05.2015 passed by the Additional Civil Judge (Senior Division), Panipat has been accepted.

2. Learned counsel for the petitioner has submitted that in the present case, the petitioner/plaintiff had filed a suit for declaration and the respondent had filed an application under Order 7 Rule 11 CPC, which was dismissed by the trial Court vide order dated 19.05.2015. It is further submitted that the respondent had filed an appeal against the said order and the 1st Appellate Court allowed the said appeal and also allowed the application under Order 7 Rule 11 CPC and directed the petitioner to pay



ad valorem Court fee. It is argued that against the dismissal of the application under Order 7 Rule 11 CPC, an appeal is not maintainable and reference in this regard has been made to Order 43 Rule 1 CPC, which enumerates all the orders which are appealable.

3. On 30.03.2016, a Co-ordinate Bench of this Court was pleased to pass the following order: -

“Present: Mr. P.K. Hooda, Advocate
for the petitioner

Counsel for the petitioner inter alia contends that as application filed by the respondent/defendant under Order 7 Rule 11 read with Section 151 of Code of Civil Procedure for rejection of the plaint was dismissed by the learned trial Court, the order is not amenable to challenge in appeal before the Court of District Judge, therefore, the order passed by the District Judge, Panipat dated 11.02.2016 reversing the order passed by the trial Court is not sustainable being without jurisdiction.

Notice of Motion for 18.05.2016.

In the meantime, the trial Court shall not press for payment of ad valorem court fee.

30.3.2016”

4. On 02.09.2019, it was observed by the Co-ordinate Bench of this Court that the respondent had been served, however, none had appeared on behalf of the respondent. Thereafter, the matter was adjourned on more than four dates, however, none appeared on behalf of the respondent. Even today, none has appeared on behalf of the respondent to oppose the present revision petition.

5. A perusal of the paper-book would show that the application filed by the respondent-defendant under Order 7 Rule 11 CPC for



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rejection of the plaint was dismissed by the trial Court vide order dated 19.05.2015. Against the said order, an appeal was filed by the respondent/defendant, which is not maintainable. Order 43 Rule 1 CPC provides for the orders from which an appeal is maintainable. The dismissal of an application under Order 7 Rule 11 CPC is not one of the orders against which appeal is maintainable. Further Section 2(2) CPC, which defines decree, provides that a decree would deem to include rejection of a plaint and thus, in case an application under Order 7 Rule 11 CPC is allowed and the plaint is rejected, then, in view of the fact that the same would be a decree, the same would become an appealable order. However, in the present case, the application under Order 7 Rule 11 CPC had been dismissed by the trial Court and thus the same would neither be covered under the definition of decree nor would be an appealable order under Order 43 Rule 1 CPC. Thus, the argument raised by the learned counsel for the petitioner to the effect that the order passed by the 1st Appellate Court on 11.02.2016 while setting aside the order dated 19.05.2015 is without jurisdiction, is meritorious and deserves to be accepted.

6. Keeping in view the above-said facts and circumstances, the present revision petition is allowed and the order dated 11.02.2016 is set aside.

February 18, 2026
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
 Whether reportable?

Yes
 Yes