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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2800-2026 (O&M)

Date of Decision: 30.03.2026

SANJAY GUPTA AND ORS.

...Petitioners/Defendants

Vs.

ATTAR CHAND AND ORS.

...Respondents/Plaintiffs

CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Kunal Dawar, Senior Advocate with
Mr. Mayank Aggarwal, Advocate,
Mr. Saurav Bajaj, Advocate and
Mr. Devesh Bhatia, Advocate
for the petitioners.

Mr. Vishal Garg Narwana, Advocate with
Mr. Shubham Aggarwal, Advocate
for respondent Nos. 1 to 3.

VIRINDER AGGARWAL, J. (Oral)

1. The present revision petition has been instituted challenging the order dated 22.01.2026, whereby the application preferred by the petitioners under Order VII Rule 11 read with Order XXIII Rule 1(4) of the Code of Civil Procedure, 1908 (CPC) came to be dismissed by the learned Trial Court.

2. The respondents/plaintiffs had instituted a suit for recovery on the basis of a Memorandum of Understanding (MOU) dated 07.02.2018. In response thereto, the petitioners/defendants filed an application under Order VII Rule 11 CPC seeking rejection of the plaint on multiple grounds. It was contended that the suit was barred under Order II Rule 2 CPC, as the respondents had failed to claim all reliefs arising from the same cause of action in earlier proceedings. It was further urged that the plaint was liable

to be rejected in view of the provisions of Order XXIII Rule 1(4) CPC, since a previous suit based on the same cause of action had already been withdrawn without seeking liberty to institute a fresh suit. Additionally, the petitioners asserted that the present suit was not maintainable as it had been filed in contravention of the mandatory requirements under Section 12-A of the Commercial Courts Act, 2015, which mandates pre-institution mediation/conciliation in commercial disputes. It was also contended that the plaint was defective for want of a duly filed Statement of Truth, as required under the provisions governing commercial suits. The said application was contested by the respondents/plaintiffs; however, the learned Trial Court, after considering the submissions advanced by both sides, dismissed the application. Aggrieved by the aforesaid order, the petitioners have preferred the present revision petition. The same is being opposed by respondent Nos. 1 to 3, who have entered appearance through Mr. Vishal Garg and Mr. Shubham Aggarwal, Advocates, upon filing a caveat.

3. I have heard counsel for the parties and have gone through the record carefully.

4. After advancing arguments for some time, both parties fairly submitted that the learned Trial Court, while passing the impugned order, has held the provisions of Order II Rule 2 CPC to be inapplicable on the ground that the present suit was instituted during the pendency of the earlier suit. It was further observed that the Trial Court had not been adjudicated application on this aspect on merits in its proper perspective.

5. Learned counsel for the parties, however, drew attention to the legal position as clarified by the Hon'ble Supreme Court in *Cuddalore*

Powergen Corporation Limited vs. M/s Chemplast Cuddalore Vinyls Limited and another, 2025 INSC 73. Placing reliance particularly on paragraph 48 of the said judgment, it was contended that the reasoning adopted by the learned Trial Court is not in consonance with the settled position of law. It has been authoritatively laid down by the Hon'ble Supreme Court that there is no inflexible or absolute requirement that the earlier suit must either be pending or must have been finally decided before a plea under Order II Rule 2 CPC can be raised in a subsequent suit. The bar under Order II Rule 2 CPC is founded on the principle that a plaintiff must claim all reliefs arising from the same cause of action in one and the same suit, and the omission to do so would disentitle the plaintiff from subsequently agitating the omitted reliefs. In view of the aforesaid authoritative pronouncement, it was jointly contended that the finding returned by the learned Trial Court, to the effect that Order II Rule 2 CPC would not apply merely because the earlier suit was pending at the time of institution of the present suit, does not correctly reflect the legal position. Rather, the applicability of the bar is to be determined on the basis of identity of cause of action and omission of relief, and not strictly on the stage or status of the earlier proceedings.

6. Accordingly, considering the fact that the learned Trial Court has merely ruled out the applicability of the provisions of Order II Rule 2 CPC on the sole ground that the present suit was instituted during the pendency of the earlier suit, and has not examined or adjudicated the application on merits in the light of the settled legal position, the impugned order cannot be sustained. It is evident that the learned Trial Court has failed to consider the true scope and ambit of Order II Rule 2 CPC, particularly in

view of the law laid down by the Hon'ble Supreme Court in *Cuddalore Powergen Corporation Limited (supra)* wherein it has been clarified that the applicability of the bar under Order II Rule 2 CPC does not hinge upon whether the earlier suit was pending or had already been decided, but rather on the identity of cause of action and the omission to claim appropriate reliefs.

7. In these circumstances, the present revision petition is **disposed of** by setting aside the impugned order dated 22.01.2026. The matter is remanded to the learned Civil Judge with a direction to decide the application filed by the petitioners under Order VII Rule 11 CPC afresh, in accordance with law, and in the light of the principles laid down by the Hon'ble Supreme Court in the aforesaid judgment. The learned Trial Court shall afford adequate opportunity of hearing to both parties and pass a reasoned order on merits, uninfluenced by any observations made in the impugned order or in the present proceedings.

(VIRINDER AGGARWAL)
JUDGE

30.03.2026

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No