



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Revision Petition No. 90/2022

Premraj S/o Champa Lal, Aged About 43 Years, B/c Mewara, R/o
Village Kharachee Tehsil Marwar Junction, Distt. Pali (Raj.)

-----Petitioner

Versus

1. Lrs Of Rehmat, W/o Abdul Rajjak
1/1. Abdul Majeed S/o Abdul Rajjak, B/c Musalman, R/o
Ranawas Station, Tehsil Marwar Junction, Distt. Pali (Raj.)
1/2. Abdul Sattar S/o Abdul Rajjak, B/c Musalman, R/o
Ranawas Station, Tehsil Marwar Junction, Distt. Pali (Raj.)

Respondents

2. Mohan Lal S/o Durga Ram, B/c Meghwal, R/o Hingola
Kala, Tehsil Marwar Junction, Distt. Pali.
3. Smt. Jyoti @ Jethee W/o Narayan Lal, B/c Meghwal, R/o
Tehsil Desuri, Distt. Pali.

----- Proforma Respondents

For Petitioner(s) : Mr. Awar Dan Ujjwal

For Respondent(s) : Ms. Vrinda Bhardwaj

HON'BLE MR. JUSTICE MANOJ KUMAR GARG

Order

09/10/2024

The present revision petition has been filed by the petitioner/
defendant against the order dated 19.05.2022 passed by learned
Civil Judge, Marwar Junction, District Pali in Civil Original Suit No.
09/2009 by which the court below rejected the application filed by
the petitioner/defendant under Order 7 Rule 11 of Code of Civil
Procedure, 1908 (hereinafter referred to as "CPC").



Respondent/Plaintiff herein filed a suit for mandatory and permanent injunction against the petitioner/defendant. The petitioner/defendant preferred an application under Order 7 Rule 11 CPC stating therein that the valuation of suit has not been properly valued by the respondent/plaintiff in her plaint and court fees has also not been paid by the respondent/plaintiff. Therefore, the suit filed by the plaintiff is barred by law and same may be rejected.

The learned trial court after hearing arguments of both the parties rejected the said application by way of impugned order dated 19.05.2022.

Learned counsel for the petitioner/defendant submits that the court below has committed grave error of law in rejecting the application filed under Order 7 Rule 11 CPC. It is argued that the respondent/plaintiff has undervalued the suit by valuing it at just seven hundred rupees and the suit has been filed paying insufficient court fees. Therefore, the present suit is filed clearly without proper valuation and appropriate Court fees and therefore, the impugned order dated 19.05.2022 is liable to be set aside and present revision petition deserves to be allowed.

Learned counsel for the respondent/plaintiffs submits that the suit was filed way back in the year 2012 and the application under Order 7 Rule 11 CPC was filed in the year 2018 and in the meantime, all the witnesses have been examined and their cross-examination has also been completed except one Prem Raj. He argued that application filed by the petitioner/defendant is nothing but an afterthought, filed only with a view to delay the



proceedings. Therefore, the present revision petition deserves to be dismissed.

I have heard learned counsel for the petitioner and carefully gone through the material on record.

Respondent/plaintiffs have filed the suit for mandatory and permanent injunction against the petitioner/defendant. Learned trial court while dismissing the application under Order 7 Rule 11 CPC has specifically observed that the application has been filed by the petitioner/defendant only to delay the proceedings. Admittedly, the suit was filed in the year 2012 and the application under Order 7 Rule 11 CPC was filed in the year 2018. Although the power under Order 7 Rule 11 CPC may be exercised by the Court at any stage of the suit, either before registering the plaint, or after issuing summons to the defendant, or before conclusion of the trial, however, the petitioner defendant is seeking dismissal of suit on the ground of undervaluation and insufficient court fees. In my considered opinion, even if there is undervaluation or payment of insufficient court fee, the trial court may consider this objection at the final stage of suit. Therefore, the trial court has not committed any error in dismissing the application under Order 7 Rule 11 CPC filed by the petitioner/defendant. So, the present revision petition being devoid of merit, is liable to be dismissed, which stands dismissed accordingly.

Stay petition also stands disposed of.

(MANOJ KUMAR GARG),J

126-BJSH/-