



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

**CR No. 5385 of 2025 (O&M)  
DATE OF DECISION: 20.08.2025**

**RAM PRASTHA SARE REALTY PVT. LTD.(NOW SARE  
GURUGRAM PVT. LTD)**

**.....PETITIONER**

**Vs.**

**SATISH KUMAR**

**.....RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL**

Present: Mr.Lakshay Jindal, Advocate, &  
Mr. Shubham Mishra, Advocate,  
for the petitioner.

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**AMARINDER SINGH GREWAL, J.**

1. Prayer in the present Civil Revision Petition, filed under Article 227 of the Constitution of India, is for setting aside the impugned order dated 09.05.2025 (Annexure P-10), passed by the learned Civil Judge (Junior Division), Gurugram, whereby the application dated 15.03.2024 (Annexure P-8), moved by the petitioner-defendant under Order VII Rule 11 of the Code of Civil Procedure, 1908 (for short, "the CPC"), for rejection of the plaint, was dismissed.

2. A perusal of the records reveals that the respondent-plaintiff, Satish Kumar, son of Ram Singh, filed a suit for permanent injunction against the petitioner-defendant, M/s Ram Prastha Sare Realty Pvt. Ltd., before the learned Civil Judge (Senior Division), Gurugram. It was submitted that the petitioner-defendant had allotted to the respondent-plaintiff a flat bearing No. T-141905, having a super area of 1180 square



feet (109.62 sq. mtrs.), located on the 19th Floor, in Block T-14 of the project “GreenParC-Crescent ParC,” situated at Village Wazipur and Mewka, Residential Sector 92, Gurugram. The said allotment also included one covered car parking space as mentioned in Clause No. 1.4 of Para No. 1 of the Flat Buyer’s Agreement.

2.1 Thereafter, a Flat Buyer’s Agreement was executed between the petitioner-defendant and the respondent-plaintiff on 21.03.2013. Subsequently, on 16.02.2019, the petitioner-defendant allotted one covered car parking space bearing No. S11-A to the respondent-plaintiff, in view of certain quality issues, and the confirmation of the same was sent to the respondent-plaintiff through email.

2.2 It is the grievance of the respondent-plaintiff that the petitioner-defendant now intends to exchange his allotted car parking space Nos. S11 and S11-A without his consent and without any sufficient reason. Hence, the respondent-plaintiff filed the suit for permanent injunction, seeking to restrain the petitioner-defendant from exchanging the said car parking spaces forcibly and illegally without his consent.

2.3 Notice of the suit was issued to the petitioner-defendant, M/s Ram Prastha Sare Realty Pvt. Ltd. Upon appearance, the petitioner-defendant filed an application under Order VII Rule 11 CPC. The respondent-plaintiff filed a reply thereto. After considering the rival contentions of the parties, the learned lower Court dismissed the application of the petitioner-defendant, vide order dated 09.05.2025 (Annexure P-10), which is now under challenge in the present petition.



3. Learned counsel for the petitioner submits that the Corporate Insolvency Resolution Process (CIRP), under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC), was initiated against the petitioner before the learned Principal Bench of the National Company Law Tribunal, Delhi (for short, “the NCLT”), and the said application was admitted by the NCLT, vide order dated 09.03.2021 in C.P. No. (IB)-300 (PB)/2020 (Annexure P-2). Thereafter, the Resolution Professional published a public announcement on 12.03.2021 (Annexure P-3). The respondent-plaintiff then filed its Form-CA on 24.03.2021 (Annexure P-4) before the Resolution Professional in respect of Unit No. 1905, Tower-14, Sare Homes, Crescent Parc – Green Parc C, Sector 92, Gurugram. The claim of the respondent-plaintiff was duly considered and, subsequently, a resolution plan dated 07.01.2022 was approved, which was thereafter approved by the NCLT, vide order dated 24.04.2023 (Annexure P-5), and the same is binding upon the respondent-plaintiff.

4. The contention of learned counsel for the petitioner is that the aforesaid facts were concealed by the respondent-plaintiff while filing Civil Suit No. CS-3841-2023 for permanent injunction, restraining the petitioner-defendant from interfering with car parking space Nos. S11 and S11-A. Since the petitioner-firm was already under insolvency proceedings, the application moved under Order VII Rule 11 CPC ought to have been allowed by the learned lower Court in view of the above aspects. However, the learned lower Court wrongly dismissed the said application.

5. Accordingly, a prayer was made that the impugned order dated 09.05.2025 (Annexure P-10), which is under challenge in the present



petition, be set aside and the plaint of the respondent-plaintiff be rejected.

6. In view of the order proposed to be passed, notice is not being issued to the respondent as it would delay the proceedings besides entailing additional expense to the respondent.

7. I have heard learned counsel for the revisionist-petitioner and perused the paper-book.

8. On hearing the submissions of learned counsel for the petitioner, the learned lower Court, in its order dated 09.05.2025 (Annexure P-10), held that so long as the plaint discloses some cause of action requiring determination by the Court, the mere fact that the respondent-plaintiff may ultimately not succeed cannot be a ground for rejection of the plaint. In this regard, reliance was also placed upon the judgment of the Hon'ble Supreme Court in *Mayar (H.K.) Ltd. v. Owners and Parties, Vessel M.V. Fortune Express*, AIR 2006 SC 1828. Accordingly, the application under Order VII Rule 11 CPC was rejected.

9. Keeping in view the above facts and circumstances, this Court is of the considered view that, at the stage of exercising power under Order VII Rule 11 CPC, the stand of the petitioner-defendant in the written statement or in the application for rejection of the plaint is wholly immaterial. It is only where the averments in the plaint *ex facie* do not disclose a cause of action, or where on a reading thereof the suit appears to be barred by any law, that the plaint can be rejected.

10. On this point, this Court has also taken note of the judgment of the Hon'ble Supreme Court in *P.V. Guru Raj Reddy Rep. by GPA Laxmi Narayan Reddy and another v. P. Neeradha Reddy and others*, 2015 (2)



RCR (Civil) 43.

11. Since the present case pertains to the issue of car parking in a society, and the matter can be adjudicated only after the parties lead their respective evidence, this Court finds that the order dated 09.05.2025 (Annexure P-10) cannot be termed as either illegal or perverse.

12. Thus, this Court finds no merit in the prayer for setting aside the order dated 09.05.2025 (Annexure P-10), passed by the learned Civil Judge (Junior Division), Gurugram.

13. Finding no illegality in the impugned order dated 09.05.2025 (Annexure P-10), the present revision petition, being devoid of merit, is accordingly dismissed.

14. Pending miscellaneous application(s), if any, shall also stand disposed of.

**AUGUST 20, 2025**  
nitin

**(AMARINDER SINGH GREWAL)**  
**JUDGE**

Whether Speaking	Yes/No
Whether Reportable	Yes/No