

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****120****CR-4862-2025 (O&M)
Date of decision: 29.07.2025****Kanak Trading Company****...Petitioner(s)****Vs.****Oswal Woollen Mills Limited****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Jaspal Singh Pannu, Advocate for the petitioner.

NIDHI GUPTA, J.

Present Civil Revision Petition has been filed by the defendant seeking setting aside of the impugned order dated 23.05.2025; whereby application filed by the petitioner under Order VII, Rule 11 CPC for rejection of the plaint, has been dismissed. By way of the separate impugned order of even date, application filed by the petitioner under Section 151 CPC seeking permission to file the written statement, has also been dismissed.

2. It is *inter alia* submitted by learned counsel for the petitioner that learned trial Court was in error in dismissing the petitioner's application under Order VII Rule 11 CPC as it failed to appreciate that learned trial Court did not have jurisdiction to entertain the matter. It is submitted that vide the Impugned Order-I dated 23.05.2025, the Ld. CJJD, Ludhiana, has completely disregarded the contents of the Plaint at Annexure P-1, wherein no amount due/payable by the Petitioner has been mentioned in any manner whatsoever. Rather the Respondent Company



(Plaintiff) has made a mala fide attempt to harass the Petitioner by wrongly withholding payments due.

3. It is submitted that a collective perusal of Annexure P-1/ Plaint and the Impugned Order-I dated 23.05.2025, reveals that the Ld. CJD, Ludhiana, has omitted to consider the complete contents of the Plaint, wherein rendition of accounts has been wrongly sought as a matter of convenience without specifying the exact amount due or any other corroborating material whatsoever, inter alia for the purpose of avoiding payment of institution court fee at the time of institution etc., and other ulterior motives best known to the Respondent Company. It is accordingly submitted that application of the petitioner under Order 7 Rule 11 CPC could not have been dismissed.

4. Ld. Counsel further submits that vide the Impugned Order-II also dated 23.05.2025, the Ld. CJD, Ludhiana, whilst striking-off the defence of the Petitioner, has failed to consider the fact that the Petitioner stands to suffer irreparable loss and injury, irrespective of the fact that the monetary dues of the Defendant have been wrongly withheld by the plaintiff Company. In support of his contention, learned counsel for the petitioner relies upon a judgment of the Hon'ble Supreme Court in ***"K.C.Skaria vs. Govt. of State of Kerala and another"***, Law Finder Doc Id # **103655**.

5. It is accordingly prayed that the present Civil Revision Petition be allowed; and the impugned order dated 23.05.2025 be set aside.

6. No other argument is raised on behalf of the petitioner.



7. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions made on behalf of the petitioner.

8. Brief facts of the case are that the plaintiff/respondent had filed a suit seeking rendition of accounts on dated 18.08.2021 (Annexure P-1). As per the record, although service was affected upon the petitioner on 19.10.2021 yet he put in appearance before the learned trial Court only on 06.10.2022 i.e. after almost one year. Thereafter, as the petitioner failed to appear, he was proceeded against *ex parte* vide order dated 02.01.2023. Petitioner accordingly filed an application under Order 9 Rule 13 CPC, which was allowed vide order dated 16.05.2023. Despite grant of numerous opportunities, petitioner failed to file written statement. Accordingly, vide order dated 13.02.2023, defence of the petitioner was struck off. Thereafter, the petitioner filed the present application dated 29.03.2024 (Annexure P-5) under Order VII Rule 11 CPC. Another application 29.03.2024 (Annexure P-6) was filed under Section 151 CPC seeking permission to file written statement.

9. A perusal of the application filed by the petitioner under Order VII Rule 11 CPC shows that rejection of the plaint has been sought on the ground of lack of territorial jurisdiction. It has also been pleaded that no cause of action arose to the plaintiff as the plaintiff had released only part payment. As plaintiff had failed to release the remaining payment, defendant had instituted proceedings before the NCLT Chandigarh and ROC Chandigarh. It was stated that it was only on this ground that Civil Suit had been filed. However, it is established position in law that in an application



under Order VII Rule 11 CPC, only the averments mentioned in the plaint is to be considered. The above said submissions made by the petitioner clearly show that petitioner is raising disputed questions of fact, the determination of which can only be made upon leading of evidence. Even question of territorial jurisdiction in the present case cannot be decided merely on the basis of averments made in the plaint. As such, no error can be found in the Impugned Order-I dated 23.05.2025 dismissing application of the petitioner under Order VII Rule 11.

10. As regards, dismissal of the application of the petitioner under section 151 CPC, the chronological sequence of events has already been noticed above. To briefly recapitulate, the record establishes that service was affected upon the petitioner on 19.10.2021; whereafter the petitioner appeared on 06.10.2022. As the petitioner failed to file written statement despite grant of several opportunities, his defence was struck off vide order dated 13.2.2023. Admittedly written statement is required to be filed within a maximum period of 90 days. In the present case, suit was instituted on 18.08.2021 and written statement has not been filed till date. It has been submitted by learned counsel for the petitioner that great harm and loss will be caused to the petitioner in case he is not permitted to file written statement. However, it is not just the rights of the petitioner that are at stake; even the rights available to the respondent/plaintiff under law, cannot be ignored or given the complete go by. It is my clear view that the rights of the respondent shall be prejudiced if the petitioner is permitted to file written statement at this belated stage.



11. Further, petitioner can derive no benefit from the relied upon judgment as the same is distinguishable on facts and law.

12. Hence, I find no ground is made out to interfere in the impugned orders dated 23.05.2025.

13. The present Civil Revision Petition is accordingly **dismissed**.

14. Pending application, if any, stands disposed of.

29.07.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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