

2025:PHHC:100482



217-Urgent

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**Civil Revision No. 4042 of 2023 (O&M)
Date of Decision: 05.08.2025**

Usman @ Usman Khan

..... Petitioner

Versus

Sunder Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Ashish Gupta, Advocate
for the petitioner-defendant.

None for the respondent-plaintiff.

HARKESH MANUJA, J. (ORAL)

The petitioner-defendant, by way of present revision petition, seeks setting aside of an order dated 12.10.2022 (Annexure P-4) passed by learned Civil Judge (Junior Division), Sohna (Gurugram), whereby an application under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (**for short "CPC"**) seeking rejection of plaint, filed at the instance of petitioner, stands declined.

[2] This Court, vide order dated 20.07.2023, issued notice to the respondent. Despite service, no one has chosen to appear on his behalf.

[3] I have heard learned counsel for the petitioner and gone through the paper-book.

[4] A perusal of the record shows that a suit for possession

by way of specific performance was filed *qua* 2 Kanal 6 Marla of land situated within the revenue estate of Village Atta, Tehsil and District Nuh based on an alleged agreement to sell dated 01.02.2016. In the considered opinion of this Court, once the property which is subject matter of the suit is situated within the revenue estate of Village Atta, Tehsil & District Nuh, the plaint presented at the instance of respondent-plaintiff before the Courts at Sohna (Gurugram) cannot be entertained for want of territorial jurisdiction.

[5] Though, the prayer made on behalf of the petitioner seeking rejection of plaint cannot be entertained, however, taking into account the fact that in terms of Section 16 of CPC, once the property which is subject matter of the suit is situated within the territorial jurisdiction of Nuh, the respondent-plaintiff should have preferred his suit for possession by way of specific performance before the Court of competent jurisdiction at Nuh, rather than presenting the plaint before the Courts at Sohna (Gurugram) merely for the reason that the agreement in question was executed at Sohna (Gurugram), particularly when the possession of the property in question was also prayed for in the suit; the same been covered within the main part of Section 16 of CPC, rather than its proviso. For reference, Section 16 CPC is reproduced hereunder:-

“Section 16: Suits to be instituted where subject-matter situate— Subject to the pecuniary or other limitations prescribed by any law, suits—
(a) for the recovery of immovable property with or without rent or profits,
(b) for the partition of immovable property,

(c) for foreclosure, sale or redemption in the case of a mortgage of or charge upon immovable property,
(d) for the determination of any other right to or interest in immovable property,
(e) for compensation for wrong to immovable property,
(f) for the recovery of movable property actually under distraint or attachment,
shall be instituted in the Court within the local limits of whose jurisdiction the property is situate:

Provided that a suit to obtain relief respecting, or compensation for wrong to, immovable property held by or on behalf of the defendant, may where the relief sought can be entirely obtained through his personal obedience be instituted either in the Court within the local limits of whose jurisdiction the property is situate, or in the Court within the local limits of whose jurisdiction the defendant actually and voluntarily resides, or carries on business, or personally works for gain.”

The aforesaid is even derived from a decision rendered by the Hon’ble Supreme Court in case “***Harshad Chiman Lal Modi Versus DLF Universal & Anr.***”, reported as **2005 (4) RCR (Civil) 260**. Relevant para-23 thereof is extracted hereunder:-

“The question, however, is whether Delhi Court has jurisdiction in the matter. If the answer to that question is in the affirmative, the contention of the plaintiff must be upheld that since Delhi Court has also jurisdiction to entertain the suit and parties by an agreement had submitted to the jurisdiction of that court, the case is covered by Section 20 of the Code and in view of the choice of forum, the plaintiff can be compelled to approach that court as per the agreement

even if other court has jurisdiction. If, on the other hand, the contention of the defendant is accepted and it is held that the case is covered by Section 16 of the Code and the proviso to Section 16 has no application, nor Section 20 would apply as a residuary clause and Delhi Court has no jurisdiction in the matter, the order impugned in the present appeal cannot be said to be contrary to law. As we have already indicated, the suit relates to specific performance of an agreement of immovable property and for possession of plot. It is, therefore, covered by the main part of Section 16. Neither proviso to Section 16 would get attracted nor Section 20 (residuary provision) would apply and hence Delhi Court lacks inherent jurisdiction to entertain, deal with and decide the cause.”

[6] In view of the discussion made hereinabove, the learned trial Court is requested to return the plaint of **Civil Suit No. 143 of 2021**, titled “**Sunder Versus Usban**” to the respondent-plaintiff in terms of powers vested under Order VII Rule 10 of CPC for its presentation to the Court of competent territorial jurisdiction at Nuh. For convenience, Order VII Rule 10 CPC is extracted hereunder:-

“10. **Return of plaint:-**(1) *[Subject to the provisions of rule 10A, the plaint shall] at any stage of the suit be returned to be presented to the Court in which the suit should have been instituted.*

[Explanation:-- *For the removal of doubts, it is hereby declared that a Court of appeal or revision may direct, after setting aside the decree passed in a suit, the return of the plaint under this sub-rule.]*

(2) **Procedure on returning plaint.**—*On returning a plaint, the Judge shall endorse thereon the date of its presentation and return, the name of the party*

presenting it, and a brief statement of the reasons for returning it.”

As per the above, the learned trial Court shall return the plaint after making necessary endorsement in terms of sub-Rule (2) of Rule 10 and thereafter the respondent-plaintiff shall be at liberty to present such plaint in the Court of competent jurisdiction, which shall proceed thereupon in accordance with law. The aforesaid exercise be carried out by the learned trial Court within one month from the date of receipt of certified copy of this order.

[7] Pending miscellaneous application(s), if any, the same shall also stand disposed off.

August 05, 2025
'dk kamra' /sanjay

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>