

YES BANK LIMITED v. TTS HOLIDAY RESORTS PRIVATE LIMITED,

PUNJAB AND HARYANA HIGH COURT

Before: Mr. Justice Sudhir Mittal.

YES BANK LIMITED – Petitioner,

Versus

TTS HOLIDAY RESORTS PRIVATE LIMITED THROUGH ITS DIRECTOR SMT. PARVEEN REKHI – Respondent.

Civil Revision No.768 of 2021

Civil Procedure Code 1908 (V of 1908) Order 7, Rule 11 - Applies only where the suit appears from the statement in the plaint to be barred by any law - According to the statement in the plaint, the suit is for recovery of arrears of rent and thus, to say that it is barred by law on account of filing of an earlier original application for recovery before the Debts Recovery Tribunal by the defendant-petitioner is illogical.

Cases referred to:-

1. (2007-1)145 PLR 24, *State Bank of India v. Ranjan Chemicals Ltd.*

Mr. D.K. Singal, for the petitioner.

Sudhir Mittal, J. (ORAL) - (23rd August, 2021) – Vide order dated 10.02.2020 (Annexure P-12), the Civil Judge (Junior Division), Chandigarh has dismissed the application filed by the petitioner under Order 7 Rule 11 [CPC](#).

2. The suit of the respondent-plaintiff is for recovery of arrears of rent and the application under Order 7 Rule 11 CPC has been filed on the ground that the petitioner-defendant has already filed an original application before the Debts Recovery Tribunal for recovery of security amount paid in terms of lease agreement dated 20.04.2012.

3. Learned counsel for the petitioner submits that since an original application is already pending before the Debts Recovery Tribunal, the respondent-plaintiff should have filed a counter-claim in the same application. Having not done so, the plaint is barred by law and deserves to be rejected under Order 7 Rule 11 CPC. He places reliance upon *State Bank of India v. Ranjan Chemicals Ltd.*¹ (2007-1)145 PLR 24.

4. Order 7 Rule 11 CPC applies only where the suit appears from the statement in the plaint to be barred by any law. According to the statement in the plaint, the suit is for recovery of arrears of rent and thus, to say that it is barred by law on account of filing of an earlier original application by the defendant-petitioner is illogical. The judgment in *Ranjan*

Chemicals (supra) is not applicable in this case. The said case arose out of a transfer application filed before the Civil Court.

5. In view of the above, the revision petition has no merit and is dismissed.

R.M.S.

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Petition dismissed.