

(2025) 12 P&H CK 0016

Punjab And Haryana HC

Case No: Civil Revision No. 8219 Of 2025 (O&M)

Mohan Magotra

APPELLANT

Vs

M/S Ujjala Buildtech Pvt. Ltd. And
Another

RESPONDENT

Date of Decision: Dec. 16, 2025

Acts Referred:

- Constitution Of India, 1950-Article 227
- Code Of Civil Procedure, 1908-Order 2 Rule 2, Order 7 Rule 11, Order 7 Rule 11(a)
- Specific Relief Act, 1963-Section 19, 38, 41(h)
- Indian Contract Act, 1872 -Section 29
- Delhi Municipal Corporation Act, 1957-Section 169

Hon'ble Judges: Virinder Aggarwal, J

Bench: Single Bench

Advocate: Rajinder Kumar, Aashish Chopra, Rupa Pathania, Vikrant Rana, Abhinav Kaushik

Final Decision: Dismissed

Judgement

Virinder Aggarwal, J

1. The present Civil Revision Petition has been filed by the petitioner under Article 227 of the Constitution of India, challenging the impugned order (Annexure P-6) passed by the learned Civil Judge (Senior Division) Gurgaon, in CS No. 2244 of 2025, titled M/s Ujjala Buildtech Pvt. Ltd. v. Mohan Magotra & Anr., whereby the petitioners application under Order VII, Rule 11 of the Code of Civil Procedure (for short CPC) was dismissed, refusing to reject the plaint instituted by respondent No. 1. The petitioner contends that the learned Trial Court erred in law in declining to strike out the plaint at the threshold and, in the interest of justice, seeks a stay of further proceedings in the said case during the pendency of the present revision.

2. The narrative of material facts underlying the instant proceedings is that the plaintiff has filed a suit for permanent injunction to restrain the Defendants from creating third-party rights over 4.00 acres of agricultural land at Sector 75, Village Badshahpur, Gurugram, Haryana. The suit is premised on a Binding Term Sheet dated 19.06.2025 with Defendant No. 1, under which the Plaintiff agreed to acquire and develop the land for Rs. 40 crore per acre, payable through saleable area inventory. The Plaintiff alleges that a cheque for `1 crore was issued and acknowledged by Defendant No. 1, while an attempted RTGS transfer of the same amount was allegedly obstructed by the Defendants mala fide conduct. It is further contended that the land is now registered in the name of Defendant No. 2, son of Defendant No. 1, and that both Defendants are purportedly attempting to alienate the property in breach of the Term Sheet.

3. Defendant No. 1 has appeared to contest the application and submits that the suit is barred under Section 41(h) of the Specific Relief Act, 1963, as the Plaintiff has an equally efficacious remedy in seeking specific performance of the Term Sheet. The Term Sheet is void under Section 29 of the Indian Contract Act, 1872, being vague and uncertain in material terms, including the timeline for RERA registration, the nature of the agreement (outright purchase versus collaboration), and the mechanism for allocating saleable area inventory as consideration. The suit land is registered in the name of Defendant No. 2, and Defendant No. 1 has no right, title, or interest therein, rendering the Term Sheet unenforceable against Defendant No. 2. Furthermore, the Term Sheet contemplates a future collaboration agreement and execution of a General Power of Attorney, amounting to an agreement to enter into an agreement, which is inherently unenforceable. Consequently, the suit lacks a cause of action against Defendant No. 2 and is liable to be dismissed under Order VII, Rule 11(a) CPC.

4. The learned trial Court, upon due consideration of the application and the material placed on record, proceeded to dismiss the same vide the impugned order. Aggrieved thereby, the present revision petition has been instituted, assailing the said order as being illegal, void, and unsustainable in the eyes of law. It is contended that the learned Civil Judge failed to exercise the jurisdiction vested in it and, in the process, committed a grave jurisdictional error warranting interference by this Court.

4.1. The principal grounds of challenge urged by the petitioners are that the suit for permanent injunction itself was not maintainable and was expressly barred under Section 41(h) of the Specific Relief Act, 1963, inasmuch as an equally efficacious alternative remedy was available to the plaintiff. It is further contended that no earnest money or part payment was ever made towards the alleged sale of the suit land, thereby vitiating the foundational basis of the claim.

4.2. Learned counsel further submits that the terms and consideration stipulated in the term-sheet dated 19.06.2025 are vague, uncertain, and indeterminate,

rendering the said document void and unenforceable under Section 29 of the Indian Contract Act, 1872. It is also asserted that the alleged collaboration agreement and General Power of Attorney were neither executed nor got duly registered within the stipulated period of ten days from the date of execution of the term-sheet, as mandatorily required under Clause IV thereof.

4.3. Additionally, it is contended that petitioner No.2, who is asserted to be the sole and exclusive owner of the suit land, was not a signatory to the term-sheet, thereby further undermining the validity and enforceability of the alleged contractual arrangement. On these premises, it is urged that the impugned order suffers from patent illegality and material irregularity and is liable to be set aside in exercise of this Courts revisional jurisdiction.

5. The present petition was duly contested by respondent No.1, who entered appearance as a caveator and opposed the reliefs sought by the petitioners.

6. This Court has heard learned counsel appearing on behalf of both the petitioners and the caveator/respondent No.1 at considerable length and has meticulously examined and scrutinized the entire record placed before it.

7. Learned counsel for the petitioner has contended that the learned Civil Court committed a manifest and grave jurisdictional error by declining to allow the application seeking rejection of the plaint. In support of this submission, reliance has been placed upon the decision of this Court in Jagtar Singh v. Rajinder Kumar and others, 2012(4) CCC 262, wherein it was held as follows:-

However, suit for injunction is not maintainable in view of Section 41(h) of the Specific Relief, Act, 1963 because the plaintiff had equally efficacious remedy to seek specific performance of the alleged agreement , but not sought he said relief.

8. She further placed reliance upon the judgment of the Chhattisgarh High Court, Bilaspur Bench, in Buonabi v. Hafgijudin and others, 2021(1) CGLJ 334, wherein the High Court observed and held as follows:-

45. A careful perusal of the aforesaid provisions would show that perpetual injunction under Section 38 of the Specific Relief Act, 1963 cannot be granted when equally efficacious relief can be obtained by any other usual mode of proceeding. Section 38 has to be read with Section 41(h) and both the provisions have to be read together. The purpose of the aforesaid clauses is to prevent multiplicity of proceedings. The word efficacious' means which would put the plaintiff in the same position in which he would have been if he had not asked for a relief of injunction. It refers to the relief being capable of obtaining by another usual mode of proceedings able to produce the same result intended by the plaintiff; and based on the same set of facts and allegations as constitute the foundation of a suit for injunctions. The usual mode of

proceeding where there is an agreement capable of being specifically enforced is obviously in a suit for specific performance of contract under Section 19 of the Specific Relief Act, 1963.

46. In the matter of M/s. Jawahar Theatres Private Ltd. Vs. Smt. Kasturi Bai and another MANU/MP/0040/1961: AIR 1961 Madhya Pradesh 102, the Madhya Pradesh High Court has clearly held that the Court would normally refuse to grant injunction in case where plaintiff is in a position to claim specific performance of contract.

47. The Supreme Court in the matter of The Municipal Corporation of Delhi Vs. Suresh Chandra Jaipuria and another MANU/SC/0383/1976: AIR 1976 SC 2621, has held that Section 41(h) of the Specific Relief Act, 1963 lays down that injunction cannot be granted when equally efficacious relief can be obtained by any other usual mode of proceeding and held in para 10 as under:--

"10. Further, Section 41(h) of Specific Relief Act which lays down that an injunction, which is a discretionary equitable relief cannot be granted when an equally efficacious relief is obtainable in any other usual mode or proceeding except in cases of breach of trust was also relevant on this point. Thus the remedy under Section 169 of the Delhi Municipal Corporation Act 1957 was available to the plaintiff. This consideration had a bearing upon the question whether a prima facie case existed for the grant of an interim injunction."

48. Likewise, in the matter of Satish Bahadur Vs. Hans Raj and others MANU/PH/0195/1980: AIR 1980 Punjab and Haryana 351, in identical fact-situation, the Punjab and Haryana High Court has held that since plaintiff was entitled to equally efficacious relief of specific performance of contract by filing suit, the bare suit for permanent injunction could not proceed and held as under:-"Since the plaintiffs are entitled to another equally efficacious relief, the present suit for permanent injunction cannot proceed, because an injunction cannot be granted when equally efficacious relief can certainly be obtained by any other usual mode of proceedings. In the present suit the Court is not concerned with the limitation of three years for filing the suit for specific performance of the contract. The sole question to be decided is whether the present suit for permanent injunction can continue when an equally efficacious relief has become available to the plaintiffs during the pendency of the suit. It cannot be disputed that the subsequent events after the institution of the suit can always be taken into consideration while deciding the matter in controversy. Reference in this respect can be made to Pasupuleti Venkateswarlu's case MANU/SC/0415/1975: AIR 1975 SC 1049."

9. He further relied upon the judgment of this Court in Satish Bahadur v. Hans Raj and others, AIR 1980 P&H 351, wherein it was held that, inasmuch as the plaintiffs are entitled to an alternative relief that is equally efficacious, the suit for permanent

injunction cannot be entertained. The Court observed that an injunction cannot be granted where the same object or relief can be effectively secured through any other ordinary and established mode of legal proceedings, thereby rendering the claim for injunction untenable.

10. Per contra, learned counsel for the respondents/plaintiffs has contended that, in the peculiar facts and circumstances of the present case, the respondents cannot be non-suited at the nascent stage of the proceedings, and it cannot, at this juncture, be held that the plaintiffs suit is barred. It is submitted that, in view of the statutory mandate contained in Section 41(h) of the Specific Relief Act, 1963, an equally efficacious alternative remedy of filing a suit for specific performance in respect of the term-sheet was available to the plaintiff, and such injunction suit cannot be rendered ineffectual by a summary rejection at this stage. Particularly where all this is required to be adjudicated when petitions are denying execution of any enforceable agreement.

10.1. Learned counsel placed reliance upon the decisions of the Delhi High Court in *Sunil Kapoor vs. Himmat Singh*, 2008(20) RCR (Civil) 294, this Court in *Satwant Singh (deceased) through LRs vs. Ranjit Singh and others*, 2023 PHHC 083268, and in *M/s Rakushka International Private Limited vs. M/s Wings Hospitality*, 2024 PHHC 074738, to submit that the law clearly supports the principle that a suit cannot be dismissed at the threshold in such circumstance.

10.2. It is, therefore, contended that the learned Civil Judge, in declining the application, acted well within the scope of its jurisdiction, and the impugned order does not suffer from any jurisdictional error or infirmity. Consequently, the said order does not warrant any interference in the exercise of revisional jurisdiction of this Court.

11. I have carefully perused the record. The learned Civil Judge, while adjudicating the application under Order VII Rule 11 of the Code of Civil Procedure, 1908, declined to accept the same on several cogent grounds. It was observed that the contentions raised by the defendants regarding the term-sheet being void for uncertainty could not be decided at the threshold, as such issues are essentially questions of evidence and require a full trial for proper determination. Further, the contention that Defendant No.2 was not a signatory to the term-sheet also necessitates factual and evidentiary scrutiny, particularly in light of the averments in the plaint that Defendant No.1 was expressly authorized by Defendant No.2 to enter into the agreement on his behalf.

11.1. The learned Civil Judge noted that questions relating to the execution of the collaboration agreement and the General Power of Attorney likewise involve interpretation of the term-sheet and require detailed factual adjudication. As regards the objection that the suit for permanent injunction is not maintainable because an equally efficacious remedy of specific performance is available to the

plaintiff, it was observed that the plaintiff had appropriately moved an application reserving his right to seek specific performance of the agreement. The plaintiff had sought the leave of the Court to reserve the right to pursue specific performance at a later stage.

11.2. In these circumstances, the learned Civil Judge correctly concluded that, at the preliminary stage of the proceedings, it is neither necessary nor appropriate for the Court to determine whether specific performance is the sole available remedy, or whether the suit for permanent injunction is maintainable, based solely on the averments contained in the plaint. The issues raised pertain to questions of fact and law which require trial and cannot be resolved by a summary adjudication at the outset.

12. The judgments relied upon by the learned counsel for the petitioner, namely Satish Bahadur (supra), Jagtar Singh (supra), and Buonabi v. Hafgijudin (supra), are clearly distinguishable from the facts of the present case. In each of those authorities, the matters were adjudicated finally on their merits, and it was only after a full trial that the respective suits were held to be not maintainable. None of those decisions pertain to applications under Order VII Rule 11 CPC at the threshold stage, where preliminary determination of the plaint is sought without delving into the evidence. In Sunil Kumar (supra), the Delhi High Court has observed and held as follows:-

The plea of the counsel for the defendant is that the receipt dated 23.2.2004 cannot be construed as a valid enforceable document and reference to section 29 of the Indian Contract Act in this regard is not sufficient to non-suit the plaintiff without a full rest trial. It is not a case where this Court can conclude that the plaint is defected and does not disclose a cause of action so as to throw the same out under the provisions of Order 7, Rule 11 of the Civil Procedure Code. It will be for the plaintiff to prove its cause on the basis of evidence at the time when the case is taken to trial. Such a question cannot be gone into at this stage.

13. In Satwant Singh (supra), this Court, in paragraph 5 of its order, has comprehensively observed that a plaint cannot be rejected at the preliminary stage on the ground that an equally efficacious remedy, namely specific performance of contract, is available to the plaintiff-respondent. The Court emphasized that such a determination involves questions of fact and evidence, which cannot be adjudicated without a proper trial. The relevant portion of the judgment reads as follows:-

It is trite that while deciding an application under Order VII Rule 11 CPC only the averments of the plaint are to be seen. The plaintiff-respondents have filed a suit for permanent injunction specifically averring therein that they are in possession and have sought an injunction restraining the defendant-petitioners from dispossessing them from the suit property. It is

further averred that the development plan had been got approved and sanctioned qua the land measuring 06 acres 07 kanals 03 marlas as per possession taken, however, the area has fallen short by more than 01 acre, which materially affected the development of the colony and the entire project has been adversely affected. The argument of counsel for the defendant-petitioners that the defendant-petitioners are in possession and not the plaintiff-respondents, cannot be gone into at this stage since there is a categorical averment in the plaint that the plaintiff-respondents are in possession of the suit property. Further, the argument that an alternate equally efficacious remedy is available to the plaintiff-respondents also cannot be gone into at the stage of deciding the application under Order VII Rule 11 CPC and would be a matter of evidence. The third argument regarding the reliance on an unregistered agreement to sell in the suit also cannot be a ground for rejection of the plaint under Order VII Rule 11 CPC. Learned counsel for the petitioners has been unable to convince this Court that there is any ground made out under Order VII Rule 11 CPC for rejection of the plaint. No other argument has been raised by the counsel for the defendant-petitioners.

14. Similarly, in M/s Rakushka International Private Limited (supra), this Court held that multiple relevant circumstances require careful consideration, and it cannot be conclusively determined at the threshold stage that a suit for permanent injunction is barred merely on the ground that an equally efficacious remedy in the form of specific performance of the agreement to sell is available. The Court observed that such questions necessitate detailed examination of facts and evidence, and the relevant portion of the judgment is as follows:-

Very true, that the respondent-plaintiff, simultaneously, at the time of filing of the suit for permanent injunction, could seek relief of specific performance of the questioned agreement, but however, various other circumstances spelt out, are also required to be taken note of. One has to keep in mind that the consideration amount, in the case in hand, is quite huge one. Though, specific performance could be sought, but however, specific performance also depends upon various facts. Not seeking specific performance, at first instance, will not ipso facto, debar the respondent-plaintiff from seeking relief of injunction, before the stipulated date, more particularly, considering the huge amount involved, for which the respondent-plaintiff may have also made arrangement for the payment, in the light of the target date fixed.

Such being the position, the suit for permanent injunction was maintainable and it cannot be said, at this stage, to be barred under Section 41(h) of the Specific Relief Act and thus, consequently, learned trial Court had rightly so concluded about the suit to be maintainable and dismissed the application under Order 7 Rule 11 CPC, filed by the petitioner-defendant. Thus, the impugned order warrants no interference.

15. Having considered the matter in detail, it is apparent that there exist substantial disputed questions of fact regarding the terms and conditions of the term-sheet. The learned Civil Judge has, therefore, rightly concluded that, at this preliminary stage, it cannot be definitively held that the plaintiffs suit is barred under law, particularly in light of the provisions of Section 41(h) of the Specific Relief Act, 1963, which recognize the availability of an equally efficacious alternative remedy in the form of specific performance of the contract.

15. 1. It is further noted that in the present proceedings, the respondent-plaintiff has already filed an application along with the plaint under Order II Rule 2 CPC, seeking the Courts permission to reserve the right to subsequently initiate proceedings for specific performance of the contract. That application is yet to be adjudicated. In such circumstances, where the question of whether the Court will permit the plaintiff to exercise the reserved right for seeking specific performance remains unresolved, it would be wholly inappropriate at this stage to conclude that the suit for permanent injunction is barred, particularly in view of the statutory scheme under Section 41(h).

15. 2. Given that these issues necessitate detailed factual and evidentiary determination during the course of trial, the learned Civil Judge correctly declined to grant the petitioners application at the threshold. There is, accordingly, no jurisdictional error or infirmity in the impugned order.

15. 3. In the result, I find the revision petition to be devoid of any merit, and the same is, therefore, hereby dismissed.

16. It is, however, expressly clarified that the observations and findings recorded here-in-above shall not, in any manner whatsoever, be construed as an expression of opinion on the substantive merits of the main controversy between the parties. The same are strictly confined to the narrow and limited issues arising for consideration in the present revision petition and have been rendered solely for the purpose of adjudicating those specific questions.

17. Consequent to the adjudication and final disposal of the principal matter, all pending miscellaneous applications, if any, which are ancillary, collateral, or consequential to the main proceedings, shall stand disposed of accordingly, with no further or separate orders being necessary.