



CR-688-2025 (O&amp;M)

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

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**CR-688-2025 (O&M)  
Reserved on :- 11.08.2025  
Pronounced on:-12.08.2025**

Varinder Pal Singh and Another

....Petitioners

VERSUS

Smt. Simarjit Kaur and Others

...Respondents

**CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU**

Present: Mr. Vivek K. Thakur, Advocate for  
Mr. Akshit Pathania, Advocate for the petitioners.

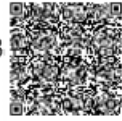
Mr. Nimanyu Gautam, Advocate for the respondents.

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**MANDEEP PANNU J.**

1. By way of the present revision petition, the petitioners/contesting defendants (hereinafter referred to as the 'petitioners') have challenged the correctness of the order dated 07.12.2024 passed by the learned Civil Judge (Senior Division), Kapurthala, whereby their application under Order VII Rule 11 of the Code of Civil Procedure, 1908 (hereinafter referred to as, 'CPC') for rejection of the plaint has been dismissed.

2. Learned counsel for the petitioners contends that the trial Court erred in dismissing their application, without dealing with all the grounds raised. It is submitted that the plaintiff has sought only a declaration of ownership in respect of the suit property without claiming the consequential relief of possession. Since she is admittedly not in possession, the suit for bare declaration is barred under Section 34 of the Specific Relief Act. It is argued that the suit being for declaration with consequential relief was required to be valued ad valorem on the market value of



the property, and fixed court fee was insufficient. Further the contention of the learned counsel for the petitioner is that plaintiff has based her claim on a Will dated 18.04.1995, and the predecessor-in-interest, Joginder Singh, died on 26.01.2004. The suit, having been filed after nearly 20 years, is hopelessly time-barred under Article 58 of the Limitation Act.

3. Reliance was placed on *Church of Christ Charitable Trust and Educational Charitable Society v. Ponniamman Educational Trust, [2012 (5) MLJ 601]*, to argue that when the plaint discloses no cause of action, is undervalued, or is barred by law, the Court must reject it under Order VII Rule 11 CPC.

4. It was contended that the trial Court wrongly held that the respondent/plaintiff is not required to seek possession since she only intends to remove a cloud over her title, whereas the pleadings themselves show that the defendants are in exclusive possession. Learned trial Court failed to consider the above-said objections raised before the Trial Court. No speaking order was passed by the learned trial Court.

5. Learned counsel for the respondent/plaintiff supports the impugned order and submits that there is no illegality in it. On the issue of limitation, it is urged that the trial Court rightly held it to be a mixed question of law and fact which cannot be adjudicated at the threshold under Order VII Rule 11 CPC. It is further contended that the plaintiff has claimed ownership and joint possession to the extent of  $\frac{1}{4}$  share in the estate of her father, on the basis of inheritance. Being a co-sharer, the law presumes her to be in joint possession unless there is a clear ouster, and therefore there is no requirement to seek separate relief of possession.



6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. The scope of Order VII Rule 11 CPC is well-settled. For the purposes of deciding an application thereunder, the Court is required to look only at the averments in the plaint and the documents filed therewith. The defence taken by the defendants is irrelevant at that stage. A plaint can be rejected only if, on the face of it does not disclose a cause of action (clause a); it is undervalued and the valuation is not corrected within time allowed (clause b), it is insufficiently stamped and the defect is not cured (clause c) or it is barred by any law (clause d).

***1. On the ground of limitation:***

A plaint can be rejected as barred by limitation under clause (d) only if the bar is apparent from the plaint itself. Where determination of limitation requires examination of facts, evidence, or mixed questions of law and fact, such as when the right to sue accrued, whether there was any acknowledgment, or continuous possession, the plaint cannot be rejected at the threshold. In the present case, the plea that the suit is barred by limitation is based on disputed facts regarding accrual of cause of action and alleged ouster, which will require evidence. The trial Court, therefore, rightly refused to reject the plaint on this ground.

***2. On the ground of non-claiming of relief of possession:***

In law, a co-owner is deemed to be in joint possession of the entire property unless there is a clear and unequivocal act of ouster by the other co-owners. In the present plaint, the plaintiff has claimed joint possession as a co-heir. Thus, a simpliciter suit for declaration coupled with joint possession is maintainable without claiming consequential relief of possession.



3. *On the ground of court fee:*

Where a plaintiff claims joint possession as a co-owner, fixed court fee under Article 17(iii) of Schedule II of the Court Fees Act, 1870 is payable; ad valorem court fee is not attracted. The trial Court rightly found that the objection on valuation and court fee has no merit at this stage.

8. The impugned order does not suffer from any illegality or material irregularity. The trial Court has correctly applied the law to the facts, keeping in view that the plea of limitation here is a mixed question of law and fact; a co-owner claiming joint possession need not seek separate possession; and the valuation and court fee, as per the plaint, are in accordance with law at this stage.

9. In exercise of revisional jurisdiction under Section 115 CPC, this Court cannot re-appreciate the facts or substitute its discretion for that of the trial Court in the absence of any jurisdictional error or perversity.

10. Accordingly, the present revision petition is dismissed.

11. Pending application(s), if any, also stand disposed of.

August 12, 2025  
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**(MANDEEP PANNU)**  
**JUDGE**

Whether speaking/non-speaking : Speaking  
Whether reportable : Yes/No