



125

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

CR-2578-2025

Date of decision: 30.04.2025

Baru Ram and others

...Petitioners

Versus

Ishwar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sudhanshu Makkar, Advocate for the petitioners.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 01.03.2025 (Annexure P-5) whereby the application of defendant Nos.1 to 8, 10, 11 to 18, 21, 24, 25 to 36 (including the petitioners) dated 18.05.2022 (Annexure P-2) moved under Order 7 Rule 11 CPC for rejection of the plaint has been dismissed.

2. Learned counsel for the petitioners has submitted that the petitioners had filed an application under Order 7 Rule 11 CPC on the point that the plaint does not disclose any cause of action and also on the point that the suit was barred by limitation. It is argued that a careful perusal of the plaint would show that no specific cause of action has been disclosed in the plaint. It is further submitted that the decree which is sought to be challenged is of the year 1979 and the suit had been filed in the year 2018



and thus, the same is barred by limitation. It is submitted that the application filed under Order 7 Rule 11 CPC is meritorious and the impugned order rejecting the said application is against law and deserves to be set aside and the application filed under Order 7 Rule 11 CPC deserves to be allowed and the suit filed by respondent Nos.1 to 48-plaintiffs deserves to be rejected.

3. This Court has heard learned counsel for the petitioners and has perused the paper book and is of the opinion that the impugned order is in accordance with law and deserves to be upheld and the present revision petition being meritless, deserves to be dismissed for the reasons stated hereinafter.

4. The suit in the present case was filed in the year 2018. Written statement in the present case had also been filed by the petitioners. By filing an application under Order 7 Rule 11 CPC, the petitioners have been able to delay the proceedings in the suit by several years. A perusal of the plaint would show that both the pleas which are sought to be agitated for rejection of the suit are completely misconceived. It is a matter of settled law that for deciding an application under Order 7 Rule 11 CPC, it is the plaint which is to be seen and the plea in defence is not to be taken into consideration. With respect to the aspect of cause of action, it would be relevant to note that the present suit had been filed for declaration to the effect that the plaintiffs were owners to the extent specifically detailed in the head note of the plaint. The share of each plaintiffs regarding which declaration was sought, had been detailed in the head note itself. It was the case of the plaintiffs that Udmi, predecessor-in-interest of the defendants, was only *Gair Maurusi* and had illegally filed the suit No.13-HM in the Court of Sh. Jagbir Singh, HCS,



SDO (Civil), exercising the powers of Assistant Collector, Ist Grade, Bhiwani, for acquisition of occupancy rights under Sections 5 and 8 of the Punjab Tenancy Act, which was decreed and it had further been stated that the said decree was invalid and against law on several grounds which were detailed in para 4 of the plaint. Ground (B) taken in para 4 was to the effect that the said order was passed without service on the owners of the land in accordance with law. Ground (H) taken in para 4 was to the effect that after the enforcement of the Vesting of the Proprietary Rights Act, 1952, the Assistant Collector, Ist Grade had no jurisdiction to try and entertain any suit for occupancy rights and the said suit could only be entertained by the Civil Court and thus, the judgment dated 04.04.1979 was passed without jurisdiction. It had further been stated that subsequent transactions after passing of the said judgment by the person who had benefited from the said judgment were also illegal, null and void and not binding on the rights of the plaintiffs. It had further been specifically stated in para 8 of the plaint that the plaintiffs came to know about the wrong entries and wrong mutations and impugned judgments and decrees in the month of June, 2018, after they had obtained jamabandi and immediately thereafter, the present suit was filed in the year 2018 itself.

5. On a pointed query raised by this Court, learned counsel for the petitioners has fairly submitted that prior to the judgment and decree dated 04.04.1979, it was Bhola and others who were shown to be owners of the property. A perusal of the plaint would show that the suit had been filed by son/daughter/grand children of the said Bhola. In the said circumstances, it is apparent that in case averments made in the plaint are taken to be true on



their face value, then in case the plaintiffs were to succeed on the aspect of judgment and decree dated 04.04.1979 being against law and against principles of natural justice, then the plaintiffs would have a strong plea to be declared as owners of the suit property. It could not thus even remotely be said that the plaint does not disclose a cause of action and the said ground for rejecting the plaint has been rightly dismissed by the trial Court.

6. Even plea with respect to limitation for rejection of the plaint had been rightly rejected by the trial Court vide impugned order dated 01.03.2025. It had been rightly observed that in the plaint, it is the specific case of the plaintiffs that they came to know about the wrong entries and wrong mutations and impugned judgments and decrees in the month of June 2018, when fard jamabandi was obtained by them from Halqa Patwari for the purpose of partition of land and prior to that, they were not aware about the said entries. Nothing has been shown to this Court which would show that the plaintiffs were aware of the said judgment of 1979 and other documents etc. prior to 2018. The trial Court has thus, rightly observed that the plea of the suit being barred by limitation should be decided after framing of the issue of limitation and after permitting both parties to lead evidence, as the same is a mixed question of law and facts.

7. Keeping in view the abovesaid facts and circumstances, the impugned order dated 01.03.2025 is in accordance with law and deserves to be upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly, dismissed.

8. It is clarified that the observations made in the present order are only for the purpose of deciding the present revision petition arising from



the order passed on the application under Order 7 Rule 11 CPC and should not be construed as a final expression of opinion on the merits of the main suit, which would be decided independently by the trial Court, on the basis of documents and evidence led during the course of trial.

30.04.2025

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No