



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

CR-2816-2021(O&M)

Date of Decision: May 26, 2025

Nathi Ram through LR

...Petitioner

Versus

Mohan Lal and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Sandeep Jasuja, Advocates
for the petitioner.

Mr.Sanjay Jain, Advocate
for respondents No.1 to 5.

Service of respondents No.6 to 13 dispensed with.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 29.10.2021 (Annexure P-4) passed by learned trial Court, whereby, an application under Order 7 Rule 11 CPC was disposed of, while requiring the petitioner-plaintiff to pay *ad valorem* court fee, for the consideration stated in the deeds under challenge.

In pursuance of the notice issued, the contesting respondents made appearance through counsel.

Learned counsel for the parties heard.

The essential facts, to be noticed, are as follows:-

That, initially petitioner-plaintiff Nathi Ram s/o Kesar Ram had filed

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a suit against defendants, who are his sons thereby, seeking declaration to the effect that blood relation transfer deeds dated 21.08.2018, 16.10.2018 and 02.11.2018 as well as mutation numbers 556, 560 and 561, sanctioned on the basis thereof and further also that the alienation of land by Mohan Lal-defendant-respondent No.1, vide sale deeds No.1591 and 1543 dated 29.01.2019 and mutation sanctioned, on the basis thereof, in favour of sons and daughter-in-law of Mohan Lal, are illegal, void, ineffective being act of misrepresentation/fraud and are not binding upon the legal rights of petitioner-plaintiff Nathi Ram and defendant-Mahinder Kumar.

He also made an alternative prayer that his sons along with their family members, are co-owners in joint possession with 1/4th share each unit/family headed by his sons, in respect of land measuring 60 Kanal 19 Marla, with consequential relief of permanent injunction.

Therein, it was also asserted that initially, the petitioner-plaintiff was owner in possession of land measuring 60 Kanal 19 Marla. The daughter-in-law of the petitioner-plaintiff Nathi Ram, namely, Seema w/o Mahinder Kumar (defendant-respondent No.11) expired in the month of May 2018 and brother of Seema had got registered FIR under Section 306 IPC against respondent No.1-Mohan Lal and his family members. Mahinder Kumar supported the said FIR. Later on, challan was presented against Mohan Lal and his family members. However, Nathi Ram wanted his family to remain together, but with the registration of the case against Mohan Lal, with the purpose to keep the family united, being head of family, had made an arrangement that both his family and property could be



protected in its best.

It was settled that the land owned by Nathi Ram shall be divided equally in four shares, for each of his sons. Further, it was decided that Sohan Lal and Inder Lal-defendant-respondent No. 8, shall get their 1/4th share of land and Mohan Lal-defendant-respondent No.1, shall get land of his share as well as share of Mahinder Kumar-defendant-respondent No.11. Also, it was decided that when Mahinder Kumar realises his mistake and come forward in support of Mohan Lal and his family members, in the criminal case, then the land of his share i.e. 1/4th share, which was given to Mohan Lal, as trustee, shall be transferred in the name of Mahinder Kumar. On this premise, Nathi Ram had transferred the property, by way of blood relation transfer deed dated 21.08.2018, 16.10.2018 and 02.11.2018, in favour of Sohan Lal, Inder Lal, Mohan Lal and their family members.

However, Mahinder Kumar, thereafter realised his mistake and Mohan Lal and his family members were acquitted in the criminal case. As per the oral settlement, petitioner-plaintiff Nathi Ram, Mahinder Kumar and other family members requested Mohan Lal to transfer the land of share of Mahinder Kumar, but however, Mohan Lal, disclosed that he had already transferred the part of the property, in favour of his wife, son and daughter-in-law, vide sale deeds No.1591 and 1543 dated 29.01.2019 and refused to transfer the share of Mahinder Kumar, in his favour. Under such circumstances, the suit in hand, was filed.

However, respondent-defendant No.1-Mohan Lal 1(A) to (D) had filed an application under Order 7 Rule 11 CPC. In the said application,

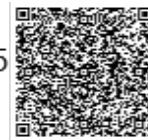
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it was asserted that petitioner-plaintiff had challenged three blood relation transfer deeds and the mutation on the basis thereof. Besides the same, he has also challenged further alienation of the part of the same, through blood relation transfer deed No.1591 as well as mutation, on the basis thereof, together with sale deed No.1543 dated 29.01.2019 and the mutation, on the basis thereof.

It was asserted in the application that the sale deed No.1543 dated 29.01.2019, which is subject matter of the suit, was executed for the total sale consideration of Rs.32 lakh, for the land measuring 16 Kanal by Sh.Dev Singh s/o Mohan Lal, in favour of Smt.Kiran Devi w/o Om Parkash-defendant No.1(B) and 1(D), respectively. The total land involved is 60 Kanal 19 Marla. As such, the total value of the suit land is estimated about Rs.1.20 crore and the petitioner-plaintiff, who challenged the sale deeds, relating to this land in question, is liable to pay Court fee, according to market value of the land in question.

In reply, the petitioner-plaintiff had resisted the application, while reiterating the contents of the plaint, with regard to the manner of execution of the sale deeds in question. Also, further it was asserted that the sale deeds are without consideration and therefore, no amount was paid and as such, no Court fee is required to be paid.

On appraisal of the material coming forth, vide order dated 29.10.2021, considering the contents of the plaint, learned trial Court had concluded that the petitioner-plaintiff is required to pay *ad valorem* Court fee, on the consideration, stated in the deeds under challenge and



accordingly, the application was disposed of.

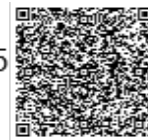
Being aggrieved, the revision petition has been filed through Sohan Lal, one of the sons of Nathi Ram, who has since died.

The rejection of a plaint under Order 7 Rule 11 CPC, is a dire power conferred upon the Court to terminate a civil action, at the threshold. The conditions precedent to exercise of power under Order 7 Rule 11 CPC, therefore, are stringent and have to be very meticulously seen, to be existing. In fact, at the stage of considering an application under Order 7 Rule 11 CPC, the averments made in the plaint, are required to be taken into consideration. The averments made in the plaint, will have to be accepted, as correct, for the purpose of consideration of the application under Order 7 Rule 11 CPC, filed at the behest of the defendant and the Courts, ought not to go beyond the same and appreciate/touch the merits of the case, while taking into consideration the contents of the written statement or of the application under Order 7 Rule 11 CPC.

In fact, it is the meaningful reading of the plaint, as a whole, taking it to be true, upon which, call is to be taken by the Courts, for payment of Court fee or not. However, at this stage, the Courts cannot pre-judge the truth, by examining the merits of the matter.

In this backdrop, also it is pertinent to mention that the Court, as such, has to consider complete assertions and one or two lines, in between, as such, cannot be picked up and considered for the purposes of consideration on the application under Order 7 Rule 11 CPC.

In the light of the aforesaid, adverting to the case in hand, it is



pertinent to mention that relationship between the parties, as such, is not disputed. The fact of Seema w/o Mahinder Kumar having died and registration of FIR under Section 306 IPC, by her brother, also is not disputed. It is also not disputed about Mohan Lal and his family members having been implicated in the FIR case, who were ultimately acquitted.

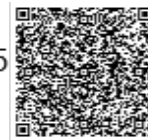
In view of the aforesaid straightened facts, it is necessary to take into consideration that petitioner-plaintiff Nathi Ram had categorically stated in the plaint about himself together with his family members, being head of the family, to have decided to make such an arrangement of his property, that both his family and property could be protected to its best.

With regard to the specific assertions made in the plaint, relevant to know about the background under which the sale deeds were executed, beneficial reference is made to paragraphs No.9, 10 and 11 of the plaint, which are reproduced in verbatim, as under:-

“9. That as per oral family settlement it was decided that land measuring 60 K-19 M as detailed in head note of plaint, owned by plaintiff, should be divided in 4 equal shares reserving 1/4th share for each son i.e. defendant no.1, 2, 3 and 4.

10. That it was further decided each son may get the property of his 1/4th share, transferred in his own name or in name of his family members jointly or severally as per his choice.

11. That it was further decided that criminal case was mostly against Mohan Lal, defendant no.1 and his family members, thus 1/4th share of defendant no.4 be retained / kept by defendant no.1 and his family as trustee for time being, with clear understanding that if defendant no.4 realizes his mistake in future and comes back in the folds of family by way of



supporting defendant no.1 and his family in criminal case by way of speaking truth, his 1/4th share reserved as trust property with defendant no.1 and family will be transferred / conveyed and handed over him after dismissal of false criminal case referred above.”

Furthermore, there is also assertion about defendant No.1 and his family members, never having complied their obligation by transfer and handing over 1/4th share to Mahinder Kumar. Rather, they disclosed about the subsequent sale deeds bearing No.1591 and 1543 dated 29.01.2019, having executed. In the plaint, it has also been specifically stated that defendant No.1-Mohan Lal, being a trustee, as per oral family settlement, was not competent to alienate the share of Mahinder Kumar and was also legally bound to return it to him, by executing legal title/transfer deed.

On this pretext, the transfers were asserted to be illegal, invalid and fraudulent. Also, in paragraph No.15, it is specifically mentioned that these sale deeds are required to be ignored **to the extent those are contrary to the spirit of family settlement**. Further, also in paragraph No.16, which gives inkling of the intention of the petitioner-plaintiff for seeking declaration vis-a-vis, sale deeds, reads as herein given:-

“16. That if need been, whole of suit property measuring 60K-19M subject matter of deeds referred in head note of plaint be pooled/consolidated and reallocated with 1/4th share each between defendant no.1 to 4 (including their respective families).”

Thus, from the contents of the plaint, it is evident that

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petitioner-plaintiff Nathi Ram himself is not seeking possession of the land, which forms part of the family settlement. He is seeking the modification/rectification of the shares, solely to facilitate giving of the share of Mahinder Kumar to him, who is other son of the petitioner-plaintiff. Besides the same, in the impugned order, reference has been made to sale deed No.1543, consideration of which is about Rs.32 lakh. However, Nathi Ram is not signatory to the said sale deed.

Keeping in view the meaningful reading of the plaint as a whole, taking it to be true, it is not appropriate, at the beginning of the case only, to terminate the civil action. The call to be taken by the Court for the payment of Court fee or not, shall be appropriately considered by framing an issue upon the same and providing an opportunity to lead evidence and hearing the parties to the lis.

The payment of *ad valorem* Court fee under these circumstances, is mixed question of fact and law, which could not be decided, at the threshold.

In the light of the aforesaid observations, the impugned order warrants interference and the same is set aside. Hence, the revision petition is hereby allowed.

Learned trial Court shall proceed further with the case, in the manner as observed aforesaid.

May 26, 2025
Vgulati

Whether speaking/reasoned
Whether reportable

(ARCHANA PURI)
JUDGE
Yes
Yes/No