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

CR-1656-2022 (O&M)

Date of Decision : 03.09.2025

SHAKTI LATHAR

.... Petitioner

VERSUS

SUMITA AND ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Nilesh Bhardwaj, Advocate for the petitioner.

Mr. K.B. Raheja, Advocate and
Mr. Nitin Meel, Advocate for respondent No.1.

None for respondents No.2, 4 to 6 and 8.

Service of respondents No.3 and 7 dispensed with
vide order dated 06.01.2023.

ALKA SARIN, J. (ORAL)

1. The present petition has been filed under Article 227 of the Constitution of India impugning the order dated 12.11.2021 passed by the learned Additional Civil Judge (Senior Division) concerned whereby the application filed by the defendant No.7-petitioner herein under Order VII Rule 11 CPC was dismissed.

2. Brief facts relevant to the present *lis* are that the plaintiff-respondent No.1 herein filed a suit for declaration to the extent that she was co-owner in joint possession of the properties, as per her share, as fully described in the headnote of the plaint. Wills dated 18.11.2004 and dated 14.02.2011 were also challenged. The defendant No.7-petitioner herein filed

an application under Order VII Rule 11 CPC for rejection of the plaint on the ground that the suit was hopelessly time barred as the plaintiff-respondent No.1 had knowledge of the Wills and that the plaintiff-respondent No.1 also had knowledge of the mutations which were entered. Reply was filed to the said application. Vide the impugned order dated 12.11.2021 the application was dismissed. Hence, the present revision petition by the defendant No.7-petitioner herein.

3. Learned counsel for the defendant No.7-petitioner would contend that at the time of entering of the mutations, a compromise was entered into between the parties and as such the suit itself is not maintainable. It is further the contention of the learned counsel that the Trial Court had wrongly dismissed the application holding that the issue of limitation cannot be gone into at the stage of deciding the application under Order VII Rule 11 CPC.

4. *Per contra*, learned counsel for the plaintiff-respondent No.1 would contend that in para No.6 of the plaint it is categorically stated that it was in the first week of July 2021 that the defendant No.1 (respondent No.2 herein) met the plaintiff-respondent No.1 and disclosed that Umed Singh had executed a Will and on the basis of the said Will the defendants No.1, 3, 6 and 7 (respondents No.2, 4 and 7 and the petitioner herein) have become owners of the suit land. It is further the contention that the plaintiff-respondent No.1 is the widowed daughter-in-law of Umed Singh and thus has a right to inherit the property of Umed Singh. The defendants are the other sons of Umed Singh.

5. Heard.

6. In the present case the issue of limitation has been raised in the application under Order VII Rule 11 CPC. A perusal of the plaint reveals that the cause of action, as stated in the plaint, had arisen in July 2021 when the defendant No.1 (respondent No.2 herein) met the plaintiff-respondent No.1 and disclosed regarding the Will left by Umed Singh. From a reading of the plaint it cannot be ascertained as to whether there was any compromise between the parties on the basis of which mutation was entered into as has been argued by the learned counsel for defendant No.7-petitioner herein today. Unless it is apparent from the contents of the plaint that the plaintiff-respondent No.1 was aware of the execution of the Wills, the question of limitation can only be gone into at the time of trial and after the evidence has been led by the parties.

7. In view of the above, I find no merit in the present revision petition and the same is accordingly dismissed. Pending applications, if any, also stand disposed off.

03.09.2025
Aman Jain

(ALKA SARIN)
JUDGE

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