



CR-6147-2025 (O&M)

-1-

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

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**CR-6147-2025 (O&M)
Decided on :- 05.09.2025**

Parminder Singh Gulati

....Petitioner

VERSUS

Inderpal Kaur and Others

....Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Parminder Singh, Advocate for the petitioner.

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MANDEEP PANNU J.

1. The present revision petition has been filed by Parminder Singh, petitioner/defendant No.2, assailing the order dated 02.07.2025, whereby the application filed under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (for short, 'CPC'), praying for rejection of the plaint, has been dismissed by the learned trial Court.

Brief Facts

2. It is the case of the petitioner/defendant No. 2 that plaintiffs/respondents No. 1 to 3 instituted a suit for declaration to the effect that the Release Deed and registered Will, on the basis of which mutation and subsequent entries in the revenue record were entered and sanctioned, are illegal, null and void, and not binding upon the rights of the plaintiffs. They also sought the relief of joint possession and permanent injunction restraining the defendants from alienating the suit land.

3. It was further pleaded by the plaintiffs that they are in exclusive possession of the house which was previously owned by Ramneek Singh, who executed a Will in favour of plaintiff No. 1, entitling her to succeed to the entire



estate left by him. It was further alleged that the property is coparcenary and joint Hindu family property in the hands of Amrit Kaur, who was not competent to execute the challenged documents in favour of the defendants.

4. In the said suit, notice was issued to the defendants. The petitioner/defendant No.2, on appearance filed an application under Order 7 Rule 11 CPC for rejection of the plaint on the following two grounds:

(i) That the plaintiffs have challenged the Release Deed and Will, but have not affixed the requisite ad valorem court fee, as the relief of declaration is accompanied by consequential relief of possession;

and

(ii) That the suit has been filed beyond the period of limitation prescribed, since the documents challenged are of an earlier date and the suit has been filed more than three years after execution of the documents.

5. In reply, the plaintiffs submitted that so far as limitation is concerned, they have specifically pleaded in the plaint that they had no knowledge of the mutation or the impugned documents and came to know about the same for the first time when plaintiff received summons in another case titled as “Ravinder Singh v. Inderpal Kaur”, filed by the present defendants for separate possession by way of partition. Thus, according to them, the suit was filed within limitation from the date of knowledge of fraud.

6. On the question of court fee, it was submitted by the plaintiffs that as per the Court Fees Act, 1870, they are not required to pay ad-valorem court fee since they have not sought exclusive possession, but only joint possession, on the plea that they are already in possession of the suit property.



7. The petitioner/defendant No.2 relied upon the judgment of this Court in *Dharinder Singh and Others v. Anoopjot Kaur and Others, 2025 (2) Law Herald 1063*, wherein it was held that since the dominant relief claimed was joint possession but the actual dispute was regarding cancellation of documents, the plaintiffs were required to pay court fee under Sections 7(iv)(c) and 7(v) of the Court Fees Act, 1870 and that clever drafting cannot be permitted to avoid payment of court fee.

8. The learned trial Court, however, after hearing counsel for the parties, dismissed the application under Order 7 Rule 11 CPC. The trial Court observed that it was the stand of the plaintiffs that they were seeking possession by way of partition and not exclusive possession and, therefore, they were not liable to pay ad valorem court fee. It was further held that the main relief sought by the plaintiffs was that of declaration, and once the relief of joint possession was claimed, there was no requirement to pay ad valorem court fee. The trial Court relied upon the judgment of this Court in *Suhrad Singh alias Sardool Singh v. Ranjit Singh and others, 2010 SC 104*.

9. On the question of limitation, the learned trial Court observed that the suit has been filed for declaration to declare the Release Deed and Will as null and void with the consequential relief of joint possession. The plaintiffs have pleaded fraud and forgery and have averred that they acquired knowledge of the documents only when summons were served upon them in another case. Since the suit was filed within three years of the said knowledge, it could not be said to be barred by limitation. The learned trial Court also noted that limitation is a mixed question of law and fact, and unless it is clear from the plaint itself that the suit is barred, the plaint cannot be rejected at the threshold.

**Findings of this Court**

10. Having considered the submissions of learned counsel for the petitioner and perused the record, this Court finds no merit in the present revision petition.

11. The contention regarding rejection of plaint on the ground of limitation cannot be accepted. It is well settled that where fraud, concealment, or lack of knowledge is pleaded, the issue of limitation becomes a mixed question of law and fact, which can only be decided after evidence is led by the parties. In the present case, the plaintiffs have specifically averred that they had no knowledge of the release deed, will, or mutation, and that they came to know of these documents only when summons were served upon them in another case. In such circumstances, it cannot be held at the threshold that the suit is barred by limitation. As observed in the impugned order, limitation being a mixed question of law and fact cannot be the basis for rejection of the plaint under Order 7 Rule 11 CPC.

12. So far as the question of rejection of plaint on the ground of Court fee is concerned, this Court finds that the plaintiffs have not sought exclusive possession but joint possession, claiming that they are already in possession of the property. It is well settled that in cases where joint possession is claimed, ad valorem court fee is not payable. The learned trial Court has rightly relied upon the judgment in *Suhrid Singh's case (supra)*, which squarely applies to the facts of the present case. The reliance placed by the petitioner on *Dharinder Singh's case (supra)* is misplaced, as in that case it was observed by this Court that the plaintiffs are liable to pay Court fee under Section 7(iv)(c) and 7(v) as clever drafting by the plaintiffs to project possession is not sufficient to avoid payment of Court fee. It



CR-6147-2025 (O&M)

-5-

was further held that the dominant relief was not regarding the cancellation of sale deeds, whereas in the present case the dominant relief is declaration with joint possession.

13. In view of the above, the learned trial Court has committed no error in dismissing the application under Order 7 Rule 11 CPC. The impugned order dated 02.07.2025 is well reasoned and based on settled principles of law.

Conclusion

14. For the reasons recorded hereinabove, this Court finds no ground to interfere with the order dated 02.07.2025 passed by the learned trial Court. The revision petition is accordingly dismissed.

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

September 05, 2025
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(MANDEEP PANNU)
JUDGE

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