



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

126

CR-2061-2025

Date of Decision: 03.04.2025

Karambir Singh Chauhan @ Karamvir SinghPetitioner

Versus

Ram Sarup and others ...Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

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

NIDHI GUPTA, J.

1. Prayer in the instant revision petition filed under Article 227 of the Constitution of India is for setting aside the order dated 17.02.2025 (Annexure P-6), passed by the learned trial Court, whereby the application dated NIL (Annexure P-3) filed by the petitioner under Order VII Rule 11 read with Section 151 CPC for rejection of plaint, was dismissed.

2. The only argument made by learned counsel for the petitioner/defendant in laying challenge to the impugned order is that suit filed by the plaintiffs/respondents No. 1 to 11 herein, was not maintainable as other co-sharers had not been impleaded. It is submitted that in actual fact, there were 73 co-sharers of the suit land whereas, the respondent-plaintiffs had impleaded only 11 co-sharers. It is submitted that therefore, the application (Annexure P-3) of the petitioner under Order VII Rule 11 read with Section 151 CPC could not have been rejected.



3. No other argument is raised by counsel for the petitioner.
4. I have heard learned counsel for the petitioner and perused the case file in great detail.
5. I find no merit in the submission made on behalf of the petitioner. Perusal of the record of case shows that the plaintiffs had filed the present suit (Annexure P-1) in February 2025 for permanent injunction against the defendant/petitioner and proforma respondents No. 12 to 21 herein. The said suit for permanent injunction was filed by the plaintiffs during the pendency of a Partition Application (Annexure P-2) filed under Section 111 of the Punjab Land Revenue Act, 1887 pending between the parties. The said suit was filed only against some of the co-sharers including the present petitioner as, permanent injunction was sought only qua the defendants restraining them from alienating their share in the suit property.
6. The petitioner had filed an application dated NIL (Annexure P-3) under Order VII Rule 11 read with Section 151 CPC, seeking rejection of plaint, *inter alia*, on the grounds that (i) suit of the plaintiff was not maintainable and was barred by law as partition proceedings are pending before the Revenue Court and, thus, jurisdiction of the Civil Court is barred; (ii) the suit permanent injunction is not maintainable against the co-sharers; (iii) the suit was stated to be barred by law of equity; and (iv) because, the plaintiffs had claimed that defendants want to carve out a colony in the said land whereas the plaintiffs had concealed the fact that the colony over the land in question has already been carved out about more than 30 years back. Perusal of the impugned order



(Annexure P-6) reveals that the each of the objections raised by the petitioner has been rejected after according detailed consideration and assigning cogent reasons.

7. Needless, to say that it is an established position in law that at the stage of deciding an application Order VII Rule 11 CPC, only the contents of the plaint or the documents annexed with the plaint, have to be seen. The aforesaid objections raised by the petitioner are mixed questions of law and facts.

8. The Hon'ble Supreme Court in numerous judgments including *Eldeco Housing and Industries Ltd. vs. Ashok Vidyarthi and others*, *Law Finder Doc ID # 2406865*, has repeatedly held that no evidence or merits of the controversy can be examined at the stage of deciding rejection of a plaint in an application under Order VII Rule 11 CPC; and that only the averments made in the plaint would be relevant for invoking Order VII Rule CPC. Again, in *Kamla and others vs. K.T. Eshwara Sa & Others*, (2008) 12 SCC 661, the Hon'ble Supreme Court opined that for invoking clause (d) of Order VII Rule 11 CPC, only the averments in the plaint would be relevant. For this purpose, there cannot be any addition or subtraction. No amount of evidence can be looked into. The issue on merits of the matter would not be within the realm of the Court at that stage. The Court at that stage would not consider any evidence or enter a disputed question of fact or law. In the present case, the aforesaid objections raised by the petitioner in application (Annexure P-3) filed under Order VII and Rule 11 are the mixed questions of law and



facts, which can be ascertained only by way of leading cogent evidence.

As such, the application of the petitioner has been rightly dismissed.

9. In view of the above, the instant revision petition is **dismissed.**

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

03.04.2025
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No