



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

113

CR-2464-2025

Date of Decision.:25.04.2025

Raj Singh

.....Petitioner

Vs.

Sunil @ Sonu and Others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Ashwani Bakshi, Advocate
for the petitioner.

DEEPAK GUPTA, J. (ORAL)

Defendant No.1 of civil suit bearing No.CS-156-2023 titled as "Sunil Versus Raj Singh and Others", pending in the Court of learned Civil Judge (Junior Division), Meham, is before this Court in the present revision petition, assailing the order dated 18.01.2025 (Annexure P-4), whereby trial Court has dismissed his application under Order VII Rule 11 CPC for rejecting the plaint.

2. Perusal of the paper-book would reveal that plaintiff Sunil @ Sonu (*respondent No.1 herein*) sought decree of declaration to declare relinquishment deed dated 05.02.2002 to be the result of fraud. He also challenged the subsequent entries in the revenue record to be null, illegal and void.

3. Defendants sought rejection of the plaint on the ground on non-payment of the Court fee. It was also contended that one of the defendants had already expired when the suit was filed. Besides, proper court fee had not been affixed.

**CR-2464-2025****-2-**

4. As the trial Court dismissed the application, so defendant has approached this Court by contending that trial Court wrongly held that question of limitation was mixed question of law and fact.

5. It will be apt to reproduce the observations made by the trial Court, while dismissing the application.

“5. Heard and perused the case record, it transpires that plaintiff had filed the present case for declaratory decree to declare that the relinquishment deed dated 05.02-2002 and mutation no. 7139 dated 31.07.2002 were obtained by playing a fraud and the same were void, along with the consequential relief of mandatory injunction directing defendant no. 5 to correct the revenue entries. He had specifically pleaded in para no. 10 & 16 of plaint that he had come to know about the impugned relinquishment deed and mutation on 09.10.2023. It is a matter of trial to be proved by evidences that he had prior notice of these documents. Hence, in present case the question of limitation and cause of action are mixed question of law and facts and cannot be decided while deciding the present application under Order VII r 11 of CPC. Prima-facie it appears that he has filed the present case as soon as he had come to know about the alleged documents. Therefore, nothing appears from the plaint, which ensues that the plaint ought to be rejected on ground of bar of limitation under Order VII r 11(d) of CPC.

6. As far as the second contention pertaining to the proof/accrual of cause of action to the plaintiff is concerned, this court found that the accrual of cause of action and the proof of cause of action are to be seen at the time of dismissal of suit. The plaint may be rejected on non-disclosure of cause of action and the power of the court in this regard is limited and the court has to see the pleadings as a whole to see the presence of cause of action. Even the parties may be examined under Order X of CPC to find out the cause of action. In present case, from the perusal of plaint, it prima-facie appears that all the parties to the case are family members and the plaintiff had contended the impugned instrument



on the basis of being legal heir. Hence, a cause of action is sufficiently disclosed.

7. As far as the objection of mis-joinder and non-joinder of necessary parties, filing of suit against a dead person etc. is concerned, this court found that a suit is liable to be dismissed on these grounds and not rejected by virtue of Order VII r 11 of CPC. Moreover, the suit is not barred by mis-joinder or simply non-joinder of parties, if not necessary party. It has to be proved by way of evidence, that any necessary party was left to be joined or not or any person impleaded as party has already expired, which cannot be allowed by virtue of Order VII r 11 of CPC. On mere perusal of plaint, the aforesaid objections were not prima-facie appeared to be true.

8. Lastly, the objection of the defendant no. 1 qua the none payment of sufficient court fees and undervaluation of suit is also liable to be rejected. As per section 7(iv)(c) of Court Fees Act, the court fees is payable according to the amount at which the relief sought is valued in plaint. The present case the plaintiff had valued the suit for rupees five hundred and a court fees of rupees seventy five according to it has been paid. It is again a matter of evidence as to if the suit has been undervalued and from the mere perusal of the plaint, it does not transpires to be true.”

5. It is undisputed position of law that at the time of considering the application under Order VII Rule 11 CPC, it is only the averments made in the plaint, which are required to be looked into. The defence to be put forth by the defendants cannot be considered at that stage.

6. As has been observed by the trial Court that plaintiffs specifically pleaded that he had come to know about the impugned relinquishment deed and the subsequent mutation only on 09.10.2023. In these circumstances, it becomes the question of law and fact as to whether the suit was barred by limitation or not. Similarly, whether relinquishment deed is based upon fraud as is alleged by the plaintiff, is also required to be decided on the basis of evidence. It is also been rightly observed that

**CR-2464-2025****-4-**

simply because one of the defendants had already expired, cannot be a ground to reject the plaint under Order VII Rule 11 CPC. Still further, plaintiff being not the executant of the impugned relinquishment deed and having not prayed for possession of the property in dispute, so the ad valorem Court fee was not required to be paid, as is contended by learned counsel for the petitioner.

7. In view of the above discussion, this Court does not find any illegality or perversity in the impugned order.

No merits. Dismissed.

**(DEEPAK GUPTA)
JUDGE**

April 25, 2025

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No