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

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Date of decision : 08.07.2026

Baljeet @ Baljit**..... Petitioner****V/S****Smt. Patori (deceased) through her Legal Heirs and Ors.****..... Respondents****CORAM : HON'BLE MRS. JUSTICE AMARJOT BHATTI**

Present: Mr. Sumit Sangwan, Advocate for petitioner.

AMARJOT BHATTI J. (ORAL)

1. Petitioner/defendant filed present civil revision under Article 227 of the Constitution of India for setting aside order dated 29.05.2026 (Annexure P-1) passed by learned Civil Judge (Senior Division), Bhiwani in Civil Suit No.5640 of 2013 and CM No.393 of 2025, titled as “Patori and Others versus Baljeet” whereby the application filed under Order 7 Rule 11 read with Section 151 CPC (Annexure P-2) was dismissed without proper appreciation of the facts and the documents on record.

2. Learned counsel for petitioner/defendant pointed out that Patori, (deceased) through her legal heirs and others filed suit for declaration (Annexure P-5) claiming ownership and possession over 70 Kanals, 19 Marlas being 1/6th share in the land measuring 425 Kanals, 13 Marlas situated in the revenue estate of village Nimriwali, Tehsil and District Bhiwani as per jamabandi for the year 2007-08, also challenging the adoption deed dated

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03.01.1979 and Will dated 03.01.1979, as well as mutation sanctioned thereof along with the relief of permanent injunction as detailed therein. The said suit was contested by the present petitioner/defendant by filing written statement (Annexure P-6). Earlier also present petitioner/defendant filed application under Order 7 Rule 11 read with Section 151 CPC (Annexure P-7). The said application was contested by the plaintiffs by filing reply (Annexure P-8) and the same was allowed by Civil Judge (Junior Division) vide order dated 28.09.2018 (Annexure P-9). The said order was challenged by filing civil appeal, which was allowed and consequently the application under Order 7 Rule 11 read with Section 151 CPC was declined by passing judgment dated 04.11.2025 (Annexure P-10). Thereafter the defendant/petitioner filed second application under Order 7 Rule 11 CPC (Annexure P-2), to which the plaintiff filed reply (Annexure P-3) and the same was declined vide order dated 29.05.2026 (Annexure P-1). It is pointed out that second application was filed on different ground that earlier the plaintiff had filed a Civil Suit No.736 on 25.09.1989, which was ultimately withdrawn on 28.02.1990. The copy of head note of the plaint and the order passed by the court dated 28.02.1990 are Annexure P-4. Therefore, second suit filed by the plaintiff is barred under Order 23 Rule 1 (4) of CPC as well as under Order 2 Rule 2 CPC. As per the first civil suit filed by the plaintiffs, the cause of action, if any, accrued in the year 1989, the said suit was withdrawn in February 1990. Therefore, the suit filed by the plaintiffs on 25.01.2013 is hopelessly time barred. In the light of this, the second suit filed by the plaintiffs cannot be entertained and the plaint filed by the plaintiffs (Annexure P-5) is liable to be rejected under Order 7 Rule 11 of CPC. Without considering the aforesaid factual position, the learned Civil

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Judge (Senior Division), Bhiwani has wrongly declined the application by passing impugned order dated 29.05.2026 (Annexure P-1). It is submitted that the impugned order is liable to be set aside and by accepting present civil revision, the plaint filed by the respondents/ plaintiffs is liable to be rejected under Order 7 Rule 11 read with Section 151 CPC.

3. On the other hand, learned counsel representing the respondents/plaintiffs took the stand that while filing the written statement, as well as by filing first application under Order 7 Rule 11 read with Section 151 CPC, no such stand was taken by the petitioner/defendant. The filing of alleged civil suit (Annexure P-4) or its withdrawal on 28.02.1990 is specifically denied. On the basis of hand note of the alleged plaint (Annexure P-4), the petitioner/defendant cannot claim that present suit filed by the plaintiffs is barred under Order 23 Rule 1(4) CPC or under Order 2 Rule 2 CPC. The trial in this case is already going on. The petitioner/defendant has filed one application after the other only to delay the proceedings before the trial Court. At present, the case is pending for completion of plaintiffs' evidence, giving them last opportunity to conclude the same on 03.07.2026. It is pointed out that after considering all the facts, application filed by the petitioner/defendant was rightly rejected by passing order dated 29.05.2026 (Annexure P-1).

4. I have considered the arguments advanced by learned counsel for both the parties and have gone through the documents annexed with the present petition with their able assistance. It is a matter of record that respondents/plaintiffs filed suit for declaration claiming themselves to be the owner in possession of 70 Kanals, 19 Marlas being 1/6th share in the land measuring 425 Kanals, 13 Marlas situated in the revenue estate of village



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Nimriwali, Tehsil and District Bhiwani as per jamabandi for the year 2007-08, also challenging the registered adoption deed dated 03.01.1979 and registered Will dated 03.01.1979, along with the relief of permanent injunction as detailed therein. The case is fixed for plaintiffs evidence when second application has been filed under Order 7 Rule 11 CPC, regarding rejection of plaint filed by the plaintiffs on the ground that earlier Patori and others had filed same suit for declaration claiming their ownership and possession regarding 70 Kanals, 19 Marlas being 1/6 share in the land measuring 425 Kanals, 13 Marlas situated in the revenue estate of village Nimriwali, Tehsil and District Bhiwani as per jamabandi for the year 1982-83 and had also challenged the aforesaid registered adoption deed and registered Will. In order to establish this fact, the respondent/defendant has relied upon the first page of the plaint containing title and head note (Annexure P-4), as well as order dated 28.02.1990, vide which the said civil suit was dismissed as withdrawn. Apart from the head note of the plaint as well as the aforesaid order, no other document has been annexed. During the course of arguments, learned counsel representing petitioner/defendant conceded that he does not have copy of plaint, as the record of said civil suit is not traceable.

5. Learned counsel for the petitioner/defendant has sought rejection of plaint under Order 7 Rule 11 CPC, which runs as under:-

11. Rejection of plaint.— *The plaint shall be rejected in the following cases:— (a) where it does not disclose a cause of action; (b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;*



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(c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

(e) where it is not filed in duplicate.

(f) where the plaintiff fails to comply with the provisions of rule 9.”

Now on the basis of first page of said plaint (Annexure P-4), it is claimed that the suit is barred under Order 23 Rule 1(4) of CPC, which deals with the withdrawal of suit or abandonment of part of claim without seeking the liberty to institute a fresh suit with respect to the same subject matter or part of the claim. The petitioner/defendant had also raised objection under Order 2 Rule 2 CPC, which provides that every suit include the whole of the claim which the plaintiff is entitled to make with respect to the cause of action, even though he had liberty to relinquish any part of his claim in order to bring the suit within the jurisdiction of any court. In order to decide the matter in controversy under Order 7 Rule 11 CPC, the court is to go through the pleadings in the plaint as a whole. The written statement or any kind of evidence cannot be looked into at this stage. The petitioner/defendant has laid emphasis only on the first page of the plaint (Annexure P-4). The learned trial Court while passing the impugned order dated 29.05.2026 has dealt with all the aspects of the case. At this stage, it cannot be said that the suit filed by the plaintiffs is barred by any law.

6. I do not find any illegality or irregularity committed by the trial Court while passing the order dated 29.05.2026 (Annexure P-1) and the same is

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accordingly upheld. The revision petition filed by the petitioner/defendant is declined, being without merits.

7. My above observations will have no bearing on the merits of case to be decided after recording evidence of both sides.

8. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

(AMARJOT BHATTI)

JUDGE

08.07.2026.

Sunil Devi

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No