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

CR No.2249 of 2015

Date of decision: April 01, 2015

Surender Kumar

.....Petitioner

Versus

Pardeep Kumar and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Sudhir Aggarwal, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 17.01.2015, whereby application moved by the petitioner under Order 7 Rule 11 of Code of Civil Procedure, 1908 ('CPC' for short) read with Sections 11 and 12 CPC, was dismissed.

I have heard learned counsel for the petitioner and have gone through the record available on the file carefully.

Respondent Nos.1 to 7 have filed suit against petitioner and respondent No.8 for declaration and permanent injunction that they were co-owners in the joint possession of the suit land to the extent of their shares and the agreement to sell dated 29.04.2005 and decree passed on the basis of the said agreement to sell was not binding on the rights of the plaintiffs.

During the pendency of the suit, petitioner moved an application under Sections 11 and 12 CPC and Order 7

Rule 11 CPC. Vide impugned order, the said application was rightly dismissed by the trial Court as the cause of action in the suit filed by the petitioner against respondent No.8 and the suit filed by respondents No.1. to 7 is different. Plaintiffs have claimed that the suit property was their ancestral property and their father had no right to sell their shop. Although, suit filed by petitioner for specific performance of agreement to sell in question, was decreed by the trial Court and the said decree was upheld upto this Court, but the suit filed by respondents No.1 to 7 based on separate cause of action, was liable to continue and the plaint was not liable to be rejected under Order 7 Rule 11 CPC. Petitioner will be at liberty to take up all the pleas available to him before the trial Court.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

April 01, 2015
m.singh