

CR-3120-2015 (O&M)

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

**CR-3120-2015 (O&M).
Decided on: May 8, 2015.**

Abhimanu Shukla @ Abhinav

..... Petitioner(s)

Versus

Jagpal and others

..... Respondent(s)

*** * ***

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.Parminder Singh, Advocate,
for the petitioner.**

M.M.S. BEDI, J (ORAL).

This is defendant's revision petition against the order dated 25.2.2015, Annexure P5, passed by the Civil Judge (Jr.Divn.), Karnal, dismissing the application under Order VII Rule 11 CPC.

A suit for mandatory injunction has been filed against the defendant-petitioner and proforma respondents by the plaintiff-respondent No.1 for a direction to vacate the premises. A perusal of the plaint indicates that the plaintiff-respondent No.1 claim ownership in the property in dispute on the basis of Will executed by Harjit Shukla in his favour. The petitioner and proforma-respondents are legal heirs of Pritpal Singh, the real brother of Jagpal, plaintiff-respondent No.1.

Counsel for the petitioner submits that the petitioner was born in the premises and is a member of coparcenery having a

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right in the property. Since the possession is being claimed, the ad valorem court fee is required to be affixed by the plaintiff-respondent No.1.

I have heard learned counsel for the petitioner and I am of the opinion that the suit has been filed against the petitioner for mandatory injunction claiming that he is a licensee not entitled to remain in possession as ownership rights now vest in the plaintiff-respondent No.1. A suit for mandatory injunction for recovery of possession from a licensee is maintainable.

In view of the suit for mandatory injunction being maintainable, the suit cannot be dismissed under Order VII Rule 11 CPC.

No ground is made out for interference in the impugned order.

The petition is dismissed without prejudice to the rights of the defendant- petitioner to agitate the plea of court fee or maintainability of the suit irrespective of the observations made in the present petition and seek adjudication of the same.

May 8, 2015.
rka

(M.M.S. BEDI)
JUDGE