

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No. 3255 of 2013
Date of Decision: 06.07.2015.**

Ram Piari and others

.....Petitioners

Versus

Parvati and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. N.K.Malhotra, Advocate
for the petitioners.

Mr. Kulvir Narwal, Advocate for
Mr. Amit Shivrain, Advocate
for respondents No. 1 and 2.

SABINA, J.

Petitioners have filed this petition under Article 227 of Constitution of India challenging the order dated 24.4.2013 whereby application moved by the petitioners under Order 7 Rule 11 of the Code of Civil Procedure, 1908 , was dismissed.

Learned counsel for the petitioners has submitted that respondents No. 1 and 2 had sought relief of possession and were liable to pay *ad valorem* Court fee.

Learned counsel for respondents No. 1 and 2, on the other hand, has opposed the petition and has submitted that the said respondents had only filed the suit for permanent injunction and had not claimed the relief of possession as they were already in possession of the suit property.

A perusal of the plaint Annexure P-1 reveals that in the prayer clause, it has been prayed by respondents No. 1 and 2 that

the suit of the plaintiffs be decreed and a decree for permanent injunction may be passed in their favour restraining the defendants from alienating and transferring the share of respondents No. 1 and 2. It was further prayed that in case the defendants succeeded in dispossessing the plaintiffs from the suit land, then a decree for possession qua 1/6th share of respondents No. 1 and 2 qua the suit land, be passed in their favour.

Thus, it is evident that the plaintiffs have not filed suit for possession. Rather the case of the plaintiffs was that they are in possession of the suit land. It is only in case the plaintiffs are dispossessed from the suit land during the pendency of the suit, then they have sought that a decree for possession be passed in their favour. At this stage, there is nothing on record to suggest that the plaintiffs have alleged that they have been dispossessed from the suit land. In the facts and circumstances, there is no force in the arguments raised by learned counsel for the petitioners.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

July 06, 2015
Gurpreet