

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

Date of decision: 21.01.2015

Anju Bala and another

.....Petitioners

v.

Nirmala Devi

.....Respondent

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.AK Aggarwal, Advocate for the petitioners

Jaswant Singh, J.(Oral)

Defendants are in revision aggrieved against the order dated 18.9.2014 passed by Civil Judge (Junior Division) Gurgaon whereby their application under Order 7 Rule 11 CPC for rejection of the plaint on the ground that the same is hit by the principle of Order 2 Rule 2 CPC, has been dismissed.

From reading of paper book it emerges that previously a suit was filed by Ram Pal Rana and his wife Smt. Nirmala, who are none else than the parents-in-law of the present petitioner no.1 Anju Bala and grand parents of minor petitioner no.2. In the said suit they are seeking a declaration that they are owners in possession to the extent of ½ share of the residential house having been purchased on payment of the entire sale consideration by Ram Pal Rana however, the sale deed being executed in the name of their son Hari Om Singh Rana, who is husband, since deceased, of petitioner no.1 Anju Bala and father

of petitioner no.2. Subsequently, present suit has been filed by Smt.Nirmala, mother of Hari Om Singh Rana,deceased, seeking a declaration that she being a Class-I heir, is entitled to 1/3rd share in the said residential house.

Petitioners, by referring to one paragraph in the previous suit to the extent “that the plaintiff no.2 i.e. Nirmala Devi inherited and succeeded the property in question being mother of Hari Om Singh Rana”, are alleging that the present suit is barred by principles laid down under Order 2 Rule 2 CPC.

Having heard learned counsel for the petitioners at length this Court is not inclined to interfere in the matter at this stage since the plea of Order 2 Rule 2 CPC is a mixed question of facts and law to be established at the trial. Therefore, at the stage of rejection of plaint, no interference is called for.

Dismissed.

21.01.2015
joshi

(Jaswant Singh)
Judge