

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

CR No.4082 of 2016

Date of decision: 03.08.2016

Gurdass Singh and others

-Petitioners

Versus

Hakam Singh

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. A.K. Jain, Advocate
for the petitioners.

RAJ MOHAN SINGH, J. (ORAL)

[1]. Petitioner has assailed order dated 11.02.2016 passed by Civil Judge (Junior Division), Malout whereby application under Order 7 Rule 11 (d) for rejection of plaint was declined.

[2]. Plaintiff-respondent filed a suit for declaration to the effect that he is owner of the land being natural heir of the deceased Gian Singh and the auction in favour of Partap Singh and consequent mutation sanctioned on the basis of said auction was claimed to be illegal, null and void. The alleged auction was claimed to be result of fraud, fabrication and misrepresentation. Incorporation of entries in the revenue record was also claimed to be illegal, null and void. Other prayers of the similar nature were also incorporated in the prayer clause of the

suit.

[3]. Defendants filed an application under Order 7 Rule 11 (d) CPC for rejection of plaint thereby highlighting decision made in civil suit on the basis of compromise and a decree was passed on 29.01.1993. The present suit was claimed to be barred by limitation. In reply to the application under Order 7 Rule 11(d) CPC, the plaintiff-respondent negated the plea of the defendants viz-a-viz the factum of compromise. Compromise was not admitted. Nature of suit land was also claimed to be different. No sale deed was registered in favour of Partap Singh and Hardial Singh. Title of Partap Singh was denied.

[4]. The trial Court on the basis of such contest, dismissed the application for rejection of plaint on the premise that the factum of compromise was not admitted by the plaintiff. The authenticity of compromise or otherwise has to be gone into by the Court at relevant time. At the stage of Order 7 Rule 11(d) CPC, only averments in the plaint are to be seen.

[5]. In considered opinion of this Court, since the compromise has been denied by the plaintiff-respondent and the title of Partap Singh has not been admitted and the nature of land is also claimed to be different, therefore, at this stage, the Court would not be in a position to attract provisions in terms of Order 7 Rule 11 CPC. No other document can be seen at this stage. Consequently, this revision petition is dismissed.

However, petitioner would be at liberty to file any other appropriate application at relevant stage.

(RAJ MOHAN SINGH)
JUDGE

03.08.2016
prince

Whether Reasoned/Speaking	Yes/No
Whether Reportable	Yes/No