

CR No.5990 of 2016

{1}

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.5990 of 2016

Date of decision:14.09.2016

Ram Dass and another

... Petitioners

Vs.

Roshan and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Dinesh Arora, Advocate
for the petitioners.

AMIT RAWAL J. (Oral)

Petitioner-defendants are aggrieved of the dismissal of the application under Order 7 Rule 11 of Code of Civil Procedure (hereinafter referred to as “CPC”) asking the plaintiffs to pay the ad valorem Court fee as per the market value.

Mr. Dinesh Arora, learned counsel appearing on behalf of the petitioner-defendants submits that the respondent-plaintiffs instituted a suit for partition claiming 4/18th share in view of the release deed executed by their father - Chhote Lal, since the plaintiffs had their own share to the extent of 3/8th, therefore, the suit, *ex facie*, was not maintainable as the petitioners have raised the construction and are living therein. In fact, respondent-plaintiffs are not in possession, therefore, they are required to pay the ad valorem Court fees.

I have heard learned counsel for the petitioners and appraised the paper book and of the view that in a suit for partition and joint possession, if

every co-sharer/owner person is in possession of every inch of land, then cannot be called upon to pay the ad valorem Court fees.

As regards other plea, I do not want to delve upon the same as it could affect the right of other party. In view of the observations hereinabove, the order under challenge is perfectly legal and justified. No ground is made out for interference.

Accordingly, the revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

September 14, 2016
savita

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