

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

**122**

**Civil Revision No.6372 of 2016**

**Date of Decision: September 24, 2016**

**JOGA SINGH**

**-PETITIONER**

**VERSUS**

**DALBIR KAUR AND OTHERS**

**-RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

Present: Mr.Parminder Singh, Advocate  
for the petitioner.

**RAJ MOHAN SINGH, J. (ORAL)**

In a suit for declaration filed by the plaintiff, plaintiff sought to challenge Will dated 21.10.1999 along with mutation and subsequent entries in the revenue record. A decree for joint possession was also sought to be granted along with consequential relief of permanent injunction seeking to restrain the defendants from creating any encumbrances over the suit property.

Defendants filed an application under Order 7 Rule 11 read with Section 151 CPC for rejection of plaint on the ground that keeping in view the prayer made in the plaint, affixation of *ad valorem* Court fee on market value of the suit property was required to be made by the plaintiff.

Trial Court disposed of the prayer vide impugned order on the premise that in case of agricultural land, plaintiff is

liable to pay *ad valorem* Court fee on the market value of the agricultural land which shall be ten times of the land revenue. Trial Court held the aforesaid on the strength of observations made by this Court in **Hardam Singh vs. Angrej Singh and others, 2014 (1) CCC 512** wherein this Court was of the opinion that according to Section 7 (v) of the Court fee Act, in case of agricultural land, the market value shall be ten times of the land revenue for the purposes of Court fee.

Learned counsel for the petitioner vehemently argued that in fact, real intention of the plaintiff is to seek possession of 1/4<sup>th</sup> share under the garb of joint possession.

Having considered the submission, I am of the opinion that at the stage of Order 7 Rule 11 CPC, only averments of the plaint are to be seen. In the event of granting declaration in favour of the plaintiff, she would be deemed to be entitled to the title of the property being co-sharer. Concept of joint possession is in-built mechanism for a co-sharer because a co-sharer out of possession would be deemed to be in possession on every inch of land and the possession of one of the co-sharer would be deemed to be on behalf of all the co-sharers till the land is partitioned by metes and bounds.

Looking to the prayer clause, the findings recorded by the trial Court cannot be held to be illegal or perverse, nor

the same are found to be suffered with any error of jurisdiction.

Consequently, the present revision petition is found to be totally devoid of merits and the same is accordingly dismissed.

**(RAJ MOHAN SINGH)  
JUDGE**

**September 24, 2016**

*jyoti Y.*

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |