

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

CR No. 1640 of 2016

DATE OF DECISION : 21.03.2017

Mohinder Singh and another

.... PETITIONERS

Versus

Amarjit Singh and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. J.S. Cooner, Advocate,
for the petitioners.

Mr. R.P.S. Ahluwalia, Advocate,
for respondent No.1.

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RAMESHWAR SINGH MALIK, J. (Oral)

Present revision petition, at the hands of the defendants, filed under Article 227 of the Constitution of India, is directed against the order dated 03.02.2016 (Annexure P-4) passed by the learned trial Court, whereby application moved by the petitioners under Order 7 Rule 11 of the Code of Civil Procedure was dismissed.

Notice of motion was issued.

Heard learned counsel for the parties.

A bare perusal of the plaint (Annexure P-1) and particularly the prayer clause thereof (available at page 24 of the paper-book), makes it crystal clear that it was a simple suit for declaration without any consequential relief for possession, because the plaintiff is claiming himself to be joint owner and in joint possession of the suit land. Having said that,

this Court feels no hesitation to conclude that the learned trial Court rightly relied upon the law laid down by the Hon'ble Supreme Court as well as by this Court, while passing the impugned order and the same deserves to be upheld.

The impugned order has been found to be based on sound reasons and also in consonance with the law laid down by the Hon'ble Supreme Court as well as by this Court. Once the plaintiff has filed only a suit for declaration without any consequential relief of possession, Section 7 (iv) of the Court Fee Act, 1870, would not be attracted and the plaintiff shall not be bound to pay the ad valorem court fee. That is what has been held by the learned trial court, while passing the impugned order. Under these circumstances, it can be safely concluded that the learned trial Court committed no error of law, while passing the impugned order, and the same deserves to be upheld, for this reason also.

The abovesaid view taken by this Court also finds support from a recent order passed by this Court in **Bhupinder Singh Vs. Balkar Singh (now deceased) through his LRs and others** (Civil Revision No. 7196 of 2016, decided on 24.01.2017).

During the course of hearing, learned counsel for the petitioners could not point out any patent illegality or perversity in the impugned order, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India.

No other argument was raised.

Considering the peculiar facts and circumstances of the case

noted above, coupled with the reasons aforementioned, this Court is of the considered view that the present revision petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, present revision petition stands dismissed, however, with no order as to costs.

March 21, 2017
ndj

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No