

CR No. 1792 of 2015 (O&M)

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

CR No. 1792 of 2015 (O&M)

Date of Decision: 30.8.2017

Maghar Singh and others

.....Petitioners

Vs.

Sinder Kaur and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Gursevak Singh, Advocate for
Mr. M.S. Sidhu, Advocate
for the petitioners.

Mr. G.S. Samra, Advocate
for respondent No.1.

Mr. Sumit Gupta, Advocate for
Mr. Rajinder Singh, Advocate
for respondents No. 7, 11 and 16.

RAMESHWAR SINGH MALIK J. (ORAL)

Present civil revision petition under Article 227 of the Constitution of India, at the hands of defendants, is directed against the order dated 17.1.2015 (Annexure P-1), whereby the learned trial court dismissed their application under Order VII Rule 11 of the Code of Civil Procedure ('CPC' for short).

Notice of motion was issued.

Heard learned counsel for the parties.

It is a matter of record that plaintiff-respondent No.1 filed suit for joint possession after declaration that plaintiff was owner to the extent of

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her share, on the basis of inheritance of her father-Waryam Singh. Defendants filed the application under Order VII Rule 11 CPC, seeking a direction from the learned trial court to the plaintiff to pay ad valorem court fee. After hearing learned counsel for the parties and going through the record of the case, learned trial court came to the conclusion that since the plaintiff was neither party to the sale deed in question, nor she was seeking any relief of separate possession, she was not liable to pay ad valorem court fee. Accordingly, the impugned order was passed by the learned trial court dismissing the application of the defendants. Having said that, this Court feels no hesitation to conclude that the learned court below was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

Learned counsel for the plaintiff-respondent No.1 rightly places reliance on the law laid down by the Hon'ble Supreme Court in **Suhrid Singh @ Sardool Singh Vs. Randhir Singh and others, 2010 AIR (SC) 2807** and a judgment of this Court in **Paramjit Kaur @ Pami and another Vs. Mohinder Singh and others, 2011 (5) RCR (civil) 204**, to contend, that once the plaintiff was not party to the sale deed and she was also not seeking any separate possession, the learned trial court was well justified to pass the impugned order.

When confronted with the abovesaid judgments of the Hon'ble Supreme Court as well as this Court, learned counsel for the petitioners had no answer and rightly so, it being a matter of record. Under these circumstances of the case, it can be safely concluded that the learned court below committed no error of law, while passing the impugned order and the same deserves to be upheld.

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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. In fact, the impugned order has been found duly supported by sound reasons and the same deserves to be upheld.

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 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, instant revision petition stands dismissed, however, with no order as to costs.

30.8.2017
Ak Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No