

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.2004 of 2017 (O&M)
Date of decision: 26.07.2017

Harmesh Kumar Sareen and others

... Petitioners

Vs.

Ritika Sareen

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Satbir Gill, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the order dated 08.02.2017 (Annexure P-4) passed by the learned trial Court, whereby their application under Order 7 Rule 11 of the Code of Civil Procedure, seeking rejection of the plaint for allegedly not disclosing the cause of action, defendants have approached this Court by way of present civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Heard learned counsel for the petitioners.

A bare perusal of heading of the plaint (Annexure P-1), at page 8 of the paper book, will make it crystal clear that plaintiff has given sufficient description of the property, disclosing a specific cause of action. Distinction between dismissal of a suit on merits and rejection of plaint must be understood in clear terms. It also goes without saying that initial onus would always be on the

plaintiff to prove his/her pleaded case, by leading cogent and convincing evidence. If during the course of trial of the suit, plaintiff fails to bring on record the relevant evidence, the suit may ultimately fail, but weakness of the case of the plaintiff cannot be made a ground for rejection of the plaint. It can also not be argued or presumed that as per the pleaded case of the plaintiff, he/she is bound to fail. Possibilities cannot be ruled out that the plaintiff may bring on record plausible and convincing evidence, so as to enable the learned Court of competent jurisdiction to decree the suit of the plaintiff. Having said that, this Court feels no hesitation to conclude that the learned trial Court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

Plaintiff-respondent is claiming her right in the suit property as co-parcener. Bare reading of the plaint would show that it does disclose a cause of action and plaintiff is entitled to prove her case by leading relevant evidence in support of her case. The learned trial Court was conscious of the fact that onus would be on the plaintiff to prove her case. Under these undisputed facts and circumstances of the case, 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.

During the course of hearing, learned counsel for the petitioners could not point out any patent illegality or perversity in the impugned order passed by the learned trial Court, 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 passed by the learned trial Court has been found based on sound reasons, because of which the impugned order deserves to be upheld, for this reason as well.

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 since no illegality has been found in the impugned order passed by the learned trial Court, the same deserves to be upheld. The revision petition having been found wholly misconceived, bereft of merit and without any substance, must fail. No ground for interference has been made out.

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

[RAMESHWAR SINGH MALIK]
JUDGE

26.07.2017

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No