

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CIVIL REVISION No 3449 of 2017
DECIDED ON: MAY 16, 2017

RAM NIWAS

.....PETITIONER

VERSUS

SHUBHLATA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Amit Jain, Advocate
for the petitioner.

JASPAL SINGH, J

By virtue of instant petition preferred under Article 227 of the Constitution of India, petitioner has sought the setting aside of order dated March 01, 2017 (Annexure P-4) passed by learned Civil Judge (Sr. Division), Pataudi, whereby, an application moved under Order VII Rule 11 of the Code of Civil Procedure (for short 'Code') by the petitioner/defendant for rejection of plaint; has been dismissed.

Undisputably, respondent/plaintiff has filed a suit for declaration temporary injunction with consequential relief of permanent injunction and restraining the defendant to handing over the possession of the suit land to any other person as well as from raising any sort of construction and also from alienating/transferring the suit property in any manner, during the pendency of suit.

A glance at the averments contained in the plaint reveals that

Respondent/plaintiff has claimed herself to be a coparcener in the suit

property. Thus, it can be clearly observed that the respondent/plaintiff is claiming her pre existing right in the suit property and as such there is no requirement to affix *ad valorem* court fee on the plaint. Otherwise also it is well settled proposition of law that while disposing of an application under Order VII Rule 11 of the Code for the rejection of plaint, the Court is not required to go into the merits of the case. At the same time it also cannot look into the defences put forth by the defendant in the written statement. Only the averments made in the plaint are to be taken into consideration at that time. The Hon'ble Apex Court in the case of **Surjit Kaur Gill and another vs. Adarsh Kaur Gill & another; 2014 (2) RCR (Civil) 436 (SC);** has held that for deciding of an application under Order VII Rule 11 of the Code, Court has to look into the plaint and decide whether it deserves to be rejected for the ground raised or not.

A bare look on the plaint makes it crystal clear that there is a specific averment with regard to the accrual of cause of action on May 14, 2015. Thus, this Court does not find any infirmity, illegality or perversity in the impugned order. The same is absolutely in consonance with the provisions contained under Order VII Rule 11 of the Code as well as settled canons of law and requires no interference by this Court.

In the light of what has been discussed above, this Court does not find any merit in the instant revision. As such, it stands dismissed.

No order as to costs.

**JASPAL SINGH
JUDGE**

MAY 16, 2017
sham

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No