

CR No. 3603 of 2017 (O&M)

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH**

**CR No. 3603 of 2017 (O&M)
Date of decision: 18.5.2017**

Jaswinder Singh

...Petitioner

Versus

Jayant Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Petitioner in person.

RAMESHWAR SINGH MALIK, J. (Oral)

Present revision petition, at the hands of defendant, filed under Article 227 of the Constitution of India, is directed against the order dated 28.4.2017 whereby his application under Order 11 Rule 1 of the Code of Civil Procedure ('CPC' for short) was dismissed by the learned trial court.

Heard petitioner in person.

Plaintiffs-respondents have filed a suit for declaration to the effect with plaintiff No.1 was tenant in possession of land measuring 23 kanal 2 marla, as per jamabandi for the year 2004-05 situated in village Bassi Kikran, Tehsil and District Hoshiapur and revenue entries in the name of defendants were factually incorrect, which were liable to be corrected. Decree for permanent injunction has also been sought by the plaintiffs, restraining the defendant from interfering in their possession and in the alternative, for possession of the same.

Defendant-petitioner filed his written statement, claiming his

CR No. 3603 of 2017 (O&M)

tenancy over the suit land, raising the plea of fraud, regarding power of attorney dated 1.8.1990. Once the defendant is raising the plea of fraud qua the power of attorney in question, it goes without saying that heavy onus would be on him to prove the plea of fraud, by producing cogent and convincing evidence. However, by moving application under Order 11 Rule 1 CPC, defendant was seeking assistance of the court in collecting evidence for him to substantiate his plea of fraud which is not permissible in law. 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.

It is also pertinent to note here that this very petitioner approached this Court at an earlier point of time as well, by way of Civil Revision No. 8671 of 2016, which was dismissed vide order dated 19.1.2017. In that case, petitioner sought dismissal of the suit by moving an application under Section 9 CPC and the said application was dismissed by the learned trial court vide order dated 9.11.2016 which was challenged before this Court by way of abovesaid civil revision and the same was dismissed vide order dated 19.1.2017.

There was yet another application moved by the petitioner before the learned trial court under Sections 10 and 11 CPC, which was also dismissed and the order passed thereon was also challenged by the petitioner before this Court by way of CR No. 8542 of 2016, which was again dismissed vide order dated 18.1.2017. Thus, it has become crystal clear that petitioner seems to be a chronic litigant, raising all the possible misconceived and frivolous issues at every stage of the litigation before the learned trial court. Every time, he has approached this Court. Present one is

CR No. 3603 of 2017 (O&M)

third revision petition in a row. In this view of the matter, petitioner has not been found to be a bonafide litigant and instant petition is liable to be dismissed, for the reason also.

During the course of hearing, petitioner 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. Impugned order has been found duly supported by sound reasons and 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.

18.5.2017
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No