

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

124

CR-5194 of 2017(O&M)

Date of Decision:08.08.2017

Smt.Reeta and others

.....Petitioners

Versus

Smt.Kamlesh and others

.....Respondents

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

**Present: Mr.Jangvir Singh Hooda, Advocate,
for the petitioners.**

RAMESHWAR SINGH MALIK, J.(Oral)

Feeling aggrieved against the order dated 04.05.2017, passed by the learned trial court, whereby two identical applications moved under Order 7 Rule 11 of the Code of Civil Procedure (for short the CPC”) were dismissed, defendants have approached this Court by way of present revision petition, filed under Article 227 of the Constitution of India, for setting aside the impugned order.

Heard learned counsel for the petitioners.

Learned counsel for the petitioners submits that the petitioners have already relinquished their shares in favour of their brothers. In case that is so, petitioners would be at liberty to file their written statement accordingly. It will also be open to the petitioners whether they want to contest the suit or not. However, since the dispute is *inter se* the family members, presence of the petitioners as party/defendants would be necessary, which shall facilitate the learned trial court to arrive at a

judicious conclusion, so as to do substantial justice between the parties.

Further, no prejudice of any kind whatsoever has been caused to the petitioners by passing the impugned order by the learned trial court. In this view of the matter, no fault can be found with the impugned order passed by the learned trial court and the same deserves to be upheld.

The relevant observations made by the learned trial court in the impugned order at page 41 of the paper-book, which deserve to be noticed here, read as under:-

“After hearing the learned counsel for the parties, I am of the view that one suit titled “Omwati & Ors. Vs. Jamuna Parsad & Ors.” was filed with respect to the same property in which plaintiff was also impleaded as performa defendant No.4. That suit was namely dismissed as withdrawn VOD 29.04.2015 by the Court of Ms.Nidhi Solanki, Ld. Civil Judge (Jr.Divn.), Gurugram. But from the perusal of the order there came nothing that plaintiff was ever served in that suit or her statement was recorded with respect to the compromise. Therefore, earlier order dated 29.04.2015 is not binding upon the plaintiff and same does not operate as res-judicata. In view of the above discussion, both the applications filed by the defendants under Order 7 Rule 11 CPC are hereby dismissed and disposed off accordingly.”

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. The impugned order has been found based on sound reasons and the same 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 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 above-said observations made, instant revision petition stands dismissed, however, with no order as to costs.

August 08, 2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No