

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

**CR No.5882 of 2017
Date of Decision: 18.09.2017**

Surinder Singh

.....Petitioner

Versus

Harvinder Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. H.R. Bhardwaj, Advocate for
Mr. Jagraj Singh Khiva, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner has assailed the order dated 19.07.2017 passed by Civil Judge (Junior Division), Budhlada, District Mansa, whereby application under Order 7 Rule 11 CPC moved by petitioner/defendant No.1 for rejection of plaint was declined.

[2]. Plaintiff filed a suit for joint possession on the ground that he is owner of a defined share in the total land. Will and sale deeds were also sought to be annulled. Plaintiff being son of Avtar Singh claimed his title after the death of Avtar Singh on 07.11.2002.

[3]. In case of co-sharers in the joint land, every co-sharer would be deemed to be in possession of every inch of land till the same is partitioned by metes and bounds. Even if the land is

sold by specific khasra number out of joint land, the same shall amount to sale of share only in view of ratio as laid down in **Bhartu Vs. Ram Sarup, 1981 PLJ 204.** Since the plaintiff claimed himself to be a co-sharer of a defined share and the land has not been partitioned, therefore, he would also be presumed to be in joint possession of every inch of land till partition. The present case falls under principle No.2 of the law laid down by the Hon'ble apex in **Suhrid Singh @ Sardoolsingh Vs. Randhir Singh and others, 2010(2) RCR (Civil) 564** i.e. non-executant in possession is only required to affix Court fee of Rs.19.50 in view of Article 17(iii) of Second Schedule of the Act.

[4]. In view of above, I find no error of jurisdiction in the order dated 19.07.2017 passed by Civil Judge (Junior Division), Budhlada, District Mansa. This revision petition is accordingly dismissed.

September 18, 2017.

Prince

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No