

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

CR No.7978 of 2016 (O&M).

Date of Decision: 08.05.2017.

Sandeep Sharma

....Petitioner.

VERSUS

Suman Bakshi and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Varun Gupta, Advocate for the petitioner.

SNEH PRASHAR, J.

CM-23852-CII-2016 & CM-1217-CII-2017

Allowed, as prayed for.

CM-1218-CII-2017

The documents Annexure-A4 and Annexure-A5 are taken on record, subject to all just exceptions.

Civil Miscellaneous stands disposed of.

CR-7978-2016

Challenge in this petition is to the order dated 12.09.2016 passed by learned Civil Judge (Junior Division), Faridabad dismissing the application of the petitioner-defendant No.1 under Order VII Rule 11 of the Civil Procedure Code (for short, 'CPC') for rejection of plaint of the suit filed by respondents-plaintiffs.

The submissions made by Mr. Varun Gupta, learned counsel

representing the petitioner have been considered.

Learned counsel for the petitioner argued that Kaushalya Devi, predecessor-in-interest of the parties was only General Power of Attorney of Nanak Chand and Premwati, the actual owners of the suit property. She never purchased the suit property in her lifetime whereas the petitioner purchased the suit property from Nanak Chand and Premwati, who executed an agreement to sell in his favour on 17.02.1992 on payment of full and final consideration. On the death of Kaushalya Devi, the General Power of Attorney in her favour became null and void and therefore, the respondents-plaintiffs derived no title by way of inheritance from Kaushalya Devi. The plaintiffs-respondents had no cause of action and therefore, the plaint filed by them deserves to be rejected under Order VII Rule 11 CPC.

Admittedly, the respondents-plaintiffs are daughters of Smt. Kaushalya Devi and petitioner-defendant No.1 Sandeep Sharma is her son. Proforma respondent-defendant is son of fourth daughter of Kaushalya Devi. In that manner, the parties are class-I legal heirs of Kaushalya Devi. Apparently, while the petitioner is relying on a full and final agreement to sell to claim that he had purchased the suit property from the original owner, the respondents-plaintiffs claiming to be co-sharers in the suit property alongwith the petitioner-defendant have filed a suit for partition. According to them, the suit property was purchased by Kaushalya Devi during her lifetime from joint family funds by virtue of the General Power of Attorney executed in her favour by the original owners. The facts pleaded by the respondents-plaintiffs as well as by the petitioner-defendant would be required to be proved by them by adducing necessary evidence. The veracity and its consequential effect of the documents relied upon by the parties will

plea of the respondents-plaintiffs cannot outrightly be rejected admitting the case of the petitioner-defendant and accepting the document relied upon by him.

Thus, there being no illegality, perversity or jurisdictional error warranting interference in the order of learned trial Court, the petition is hereby dismissed.

(SNEH PRASHAR)
JUDGE

08.05.2017.
jitender sharma

Whether speaking/ reasoned : **Yes/ No**

Whether Reportable : **Yes/ No**