

116.

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

Civil Revision No.1055 of 2018

Date of decision:16.02.2018.

SULAKHAN SINGH

... Petitioner

Versus

HARWINDER PAL SINGH AND ANOTHER

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Kuldip Sanwal, Advocate,
for the petitioner.

HARI PAL VERMA, J.(Oral)

Petitioner-defendant has filed present revision petition under Article 227 of Constitution of India impugning the order dated 01.12.2017 (Annexure P-7) passed by learned Civil Judge (Junior Division), Gurdaspur whereby the application filed by petitioner-defendant under Order 7 Rule 11 CPC was dismissed.

The respondent-plaintiff has filed a suit for declaration and for possession of land as fully detailed in the headnote of the plaint. In paragraph 1 of the plaint, it has been pleaded that the land, as detailed and described in the headnote, is ancestral Joint Hindu Family Coparcenary property of the plaintiff. The plaintiff has shown some justification that the suit land is ancestral joint hindu property. In the said suit, the petitioner-defendant has moved an application under Order 7 Rule 11 CPC disputing the nature of suit as ancestral property.

Learned counsel for the petitioner has argued that on the basis of averments made in paragraph 1 of the plaint, it cannot be conclusively

held that the suit land which was in the hands of Malak Singh, father of the plaintiff is ancestral and, therefore, the plaint was liable to be returned.

I have heard learned counsel for the petitioner.

It is during the course of trial and by leading evidence of the respective parties, the status of suit land can be decided as to whether the suit property was ancestral property of late Malak Singh-father of the plaintiff or otherwise. At this stage even when written statement has not been filed, it cannot be held that the suit land is ancestral in the hands of Malak Singh. Therefore, this Court finds no ground for interference.

Dismissed.

(HARI PAL VERMA)
JUDGE

16.02.2018
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No