

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Civil Revision No.1677 of 2018 (O&M)

Date of Decision: 14.03.2018

Gurdip Kaur

....Petitioner (s)

Versus

Rajwant Kaur & others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Deepak Sahni, Advocate
for the petitioner(s).

HARI PAL VERMA, J. (Oral)

Petitioner-defendant no.2 has filed the present revision petition under Article 227 of the Constitution of India, impugning the order dated 01.12.2017 passed by Civil Judge (Jr. Divn.), Mohali, whereby the application filed by the petitioner-defendant no.2 under Order 7 Rule 11 CPC, in the pending suit filed on behalf of the respondent-plaintiffs for permanent injunction, restraining the defendants or their agents from dispossessing the plaintiffs illegally and forcibly from the demised house No.318, Phase-3B1, SAS Nagar, Mohali and from alienating the said property by way of sale, gift, mortgage, exchange or by collusive decree or by executing any type of encumbrance thereon by which the title or nature of the disputed house may change, was dismissed.

Learned counsel for the petitioner has argued that the petitioner-defendant no.2 is a handicapped lady residing alone and her relations with respondent-plaintiff no.1 as well as her husband, who are her

daughter-in-law and son respectively, are not cordial. The property in question, which is a self-acquired property, was purchased by the petitioner-defendant no.2 in the year 1994 vide registered sale deed and the same stands transferred in her name. Plaintiff-respondents no.1 and 2 have filed a suit, which is false and frivolous. Since the suit property is self-acquired one, the respondent-plaintiffs have no right whatsoever in the said property, as they are not Class-I heirs. Thus, the suit is not maintainable against the petitioner-defendant no.2.

I have heard learned counsel for the petitioner and perused the impugned order.

In order to consider an application filed under Order 7 Rule 11 CPC, what is required to be considered are the averments made in the plaint. In the plaint, it has been averred that plaintiff-respondent no.1 is the wife of defendant no.1-Satinder Pal Singh, whose marriage was solemnized on 21.05.1996. The petitioner-defendant no.2 is the mother-in-law and defendant no.3 is the sister-in-law of plaintiff no.1. In the plaint, it has been averred that the suit property was in the name of one Kulbir Singh, who died in the year 2008, but it stands transferred in the name of the petitioner-defendant no.2, because after the death of father-in-law of respondent-plaintiff no.1 and husband of petitioner-defendant no.2, the demised house was to be transferred in the names of defendants no.1, 2 and 3 jointly, however, the same was transferred in the name of petitioner-defendant no.2 only. Since the plaintiff-respondents no.1 and 2 apprehended that the defendants will dispose of the said house, the suit in question was preferred, which is pending consideration. However, in the meantime, the

present application under Order 7 Rule 11 CPC has been filed by the petitioner-defendant no.2 with a prayer that the plaint be dismissed with costs.

Noticing the contents of the plaint, the application under Order 7 Rule 11 CPC as well as the impugned order dated 01.12.2017 passed by the trial Court, this Court finds that at the stage of consideration of an application filed under Order 7 Rule 11 CPC, what is to be seen is the contents of the plaint and if it discloses cause of action, suit can be filed. The controversy, as narrated in the plaint, as to whether the house in question is a self-acquired property of the father of defendant no.1 or not, is a matter to be established during trial. Similarly, the plea that the plaint has not been properly verified and stamped, is also a matter to be decided by the Civil Court and in case, the Court finds that the suit has not been properly been verified or stamped, it may dismiss the same, if law so permits.

Therefore, this Court does not find any merit in the present petition, as there is no illegality in the impugned order dated 01.12.2017 passed by Civil Judge (Jr. Divn.), Mohali.

Accordingly, the present revision petition is dismissed.

However, it is made clear that the observations made here-in-above shall not be construed as an expression on the merits of the case.

March 14, 2018
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No