

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 374 of 2018 (O/M)
Date of decision : 19.1.2018

Harinder Kaur

..... Petitioner

Versus

Savinder Singh Sachdev

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sudhir Sharma, Advocate, for petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
 2. To be referred to the Reporter or not.
 3. Whether the judgment should be reported in the digest ?
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KULDIP SINGH J. (ORAL)

Petitioner has impugned the order dated 25.8.2017, passed by the learned Civil Judge (Junior Division), Chandigarh, vide which her application filed under Order 7 Rule 11 of Civil Procedure Code, 1908, was dismissed.

The short controversy is that plaintiff-respondent has filed a suit for partition of House No. 583, dated 18-B, Chandigarh, and also suit for rendition of accounts. He also seeks perpetual injunction against defendant-petitioner. In the suit, it was claimed that plaintiff-respondent is owner in possession of house to the extent of 8/9th share.

In the application filed under Order 7 Rule 11 CPC, 1908, it is claimed that plaintiff-respondent is required to affix ad valorem court fee on the market value of suit property. It was also stated that value of present property is more than rupees eleven crores.

The trial Court observed that parties are claiming suit property through late Shri Harbans Singh Sachdev. After considering the law on the

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point, application was dismissed.

I am of the view that the remedy under Order 7 Rule 11 CPC is an extra ordinary remedy, wherein the suit is dismissed at preliminary stage without calling for evidence of parties. If defendant-petitioner feels that proper court fee was required to be affixed, she can take plea regarding the same in the written statement. In view of previous litigation between the parties and the findings, the lower Court can frame specific issues and allow the parties to lead evidence thereon. It is only after framing of specific issues and leading evidence that such question is to be decided.

Instant revision is dismissed, with abovenoted observations.

(KULDIP SINGH)
JUDGE

19.1.2018
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No