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

**Civil Revision No.538 of 2013
Date of Decision: 22.10.2018**

ANIL KUMAR SONI

.....Petitioner

Vs

PARJEET SINGH & ORS

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Namit Gautam, Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has assailed the order dated 07.09.2012 passed by the Civil Judge (Jr. Divn.) Ludhiana, whereby the application filed by the petitioner under Order 7 Rule 11 read with Section 151 CPC for rejection of the plaint was dismissed.

[2]. Learned counsel for the petitioner submitted that the plaintiff has filed a suit for declaration on the ground that he is owner in possession of land measuring 84 *kanals* 17 ½ *marlas* which was purchased by his predecessor-in-interest on 19.03.1967. Thereafter number of sale deeds were executed from the year 1973 onwards. Plaintiff has assailed all the sale deeds to be null and void. A permanent injunction has also been

sought restraining the defendants from alienating, mortgaging, transferring and dispossessing the plaintiff from the suit property.

[3]. Learned counsel for the petitioner by relying upon para No.13 of the plaint submitted that bare reading of the aforesaid para would not give any cause of action.

[4]. Learned counsel further submitted that a simpliciter suit for declaration is not maintainable in view of Section 34 of the Specific Relief Act.

[5]. I have considered the submissions made by learned counsel for the petitioner.

[6]. Perusal of para no.13 of the plaint shows that the same does not admit the possession of the defendants in clear terms. The allegations of collecting building material and giving threats to construct the property would require leading of evidence at the instance of the defendant/petitioner so as to prove possession of the petitioner over the suit property. It is a settled principle of law that the averments made in the plaint are to be considered at the stage of Order 7 Rule 11 CPC. Issue of Court fee as per parameters laid down in **Suhrid Singh @ Sardool Singh vs. Randhir Singh and others, AIR 2010(SC) 2807** would answer the controversy under Article 17(iii) of the Second Schedule of Court Fees Act wherein court fee of Rs.19.50 paisa

is required to be paid.

[7]. The second argument raised by learned counsel is bereft of merits as the plaintiff has sought declaration being owner in possession and also sought restraint against the defendants in respect of alienation and dispossession.

[8]. In view of aforesaid, the impugned order does not suffer with any error of jurisdiction. This revision petition is found to be totally devoid of merits and the same is accordingly dismissed.

October 22, 2018

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No