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

Civil Revision No.6886 of 2018

Date of Decision: 10.10.2018

Avtar Singh and another

..... Petitioners

Versus

Manpreet Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. D.S. Brar, Advocate,
for the petitioners.

SUDIP AHLUWALIA J. (ORAL)

1. Respondent No.1 had filed the suit in the Court of Civil Judge (Junior Division), SAS Nagar, Mohali seeking declaration of being owner in possession, along with proforma defendant No.5, over the disputed suit lands, along with a further declaration that the Mutation No.2675 sanctioned in favour of the original defendants on the basis of natural succession was null and void, as also that the sale deed bearing No.6594 dated 21.02.2017 executed by defendant No.2 (proforma respondent No.3) in favour of the present petitioners was similarly null and void. Her suit was based on the claim that a part of the disputed land had been gifted in her favour by her grand father-in-law on 17.12.2015, and, after his death, the mutation in her favour was initially effected which was subsequently wrongly set aside by the Revenue Court and in pursuance of which order, fresh mutation in favour of the natural Legal Heirs of the deceased had been effected.

2. The present petitioners were joined as defendants No.6 and 7 after they had themselves approached the Trial Court for their impleadment

on the ground that by virtue of the Sale Deed executed in their favour by the defendant No.2, they had acquired valuable right, title and interest in the lands purchased by them. Consequently, after impleadment of the present petitioners, the plaintiff/respondent amended her plaint by way of incorporation of an additional Paragraph No.10-A in the original plaint, whereby the validity of the sale deed executed in favour of the added respondents/petitioners was sought to be impeached.

3. The petitioners thereafter filed an application under Order VII Rule 11 of the CPC praying for rejection of the plaint on the twin grounds that:-

- (i) The amended plaint disclosed no tangible cause of action against the petitioners; and,
- (ii) That the requisite *ad valorem* Court fees on the value of the disputed land which the petitioners claim to have acquired and taken possession of in pursuance of impugned sale deed had not been filed.

4. This Court has gone through the material on record as well as the impugned order.

5. It is remarkable that nowhere in the amended plaint, plaintiff/respondent No.1 has admitted that she is not in possession of any portion of the disputed suit lands. Consequently, the question of her having to pay Court fees for possession of the suit lands would become redundant since it is well-settled that for the purpose of deciding an application under Order VII Rule 11 CPC only the pleadings in the plaint itself are to be looked into and not the specific defence of the contesting side. In the present case, the version that the petitioners/added defendant Nos.6 and 7

are in possession of the disputed land pursuant to the sale deed executed in their favour comes only from their side, which is irrelevant for the purpose of consideration in deciding the application for rejection of the plaint under Order VII Rule 11.

6. As a corollary, therefore, it would automatically follow that where the plaintiff claims to be still in possession of the disputed land notwithstanding execution of the sale deed in favour of the petitioners, she would naturally have no other cause of action against the said vendees except by way of declaration that the sale deed executed in their favour is a sham or illegal instrument. When a declaration to this effect has been specifically referred to in the added Paragraph No.10-A of the amended plaint, it cannot be held that the plaint so filed does not disclose “any cause of action” against the present petitioners.

7. Consequently, this Court finds no impropriety or infirmity in the impugned order which is, therefore, sustained.

8. Dismissed.

10.10.2018

Bhumika

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes/No

2. Whether reportable: Yes/No