

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CR No.4903 of 2015

Rakesh and Anr.

....Petitioners

Versus

Ramphal and Ors.

....Respondents

Date of Order: 17.1.2019

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rajesh Lamba, Advocate for the petitioners.

None for respondent No.1.

AMIT RAWAL, J (ORAL)

Present revision petition is directed against the impugned order dated 24.07.2015 vide which application of the petitioners for rejection of the plaint, claiming the following relief has been dismissed.

“Prayer

It is therefore respectfully prayed that this Hon'ble Court may kindly be enough to pass:

a. A Decree of Declaration to the effect that the Judgment and Decree dated 29.01.1989 and mutation no.758 are illegal, null and void qua the share of the plaintiff and passed/entered on the back of predecessor of the plaintiff and plaintiff himself, the plaintiff was not party to the said suit. Hence, the same is liable to be set aside qua the share of the plaintiff may kindly be passed in favour of the plaintiff and against the Defendants accordingly.”

Learned counsel for the petitioners submitted that neither there is any challenge to the decree nor the proper ad valorem court fee has been

paid whereas in paragraph Nos.5 & 6 challenge is laid to the sale deed dated 29.08.1989 thus the suit was liable to be dismissed.

There is no representation on behalf of the respondents despite service. I am afraid that the aforesaid argument is not sustainable as it is prerogative of the plaintiff to claim the relief. Even otherwise, provisions of Order 7 Rule 11 CPC cannot be ignored and can always be pressed at any stage of the suit.

No illegality or perversity is found with the impugned order warranting any interference.

Dismissed.

January 17, 2019
manoj

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No