

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

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CR No.1416 of 2021
DATE OF DECISION : 7th DECEMBER, 2021

Dalwinder Singh & another

.... Petitioners

Versus

Harbhajan Kaur & others

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

* * * *

Present : Mr. Prashant Vashisth, Advocate for the petitioners.

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RAJBIR SEHRAWAT, J. (Oral)

This revision petition under Article 227 of the Constitution of India has been filed by the petitioners praying for setting aside order dated 09.03.2021 passed by the Civil Judge (Junior Division), Jalandhar, whereby the application filed by the petitioners was dismissed; along with certain other prayers.

The facts of the case are that the respondents filed a suit seeking permanent injunction against the present petitioners, claiming that the respondents-plaintiffs were co-sharer in the suit property and were in possession of the same. The petitioners-defendants were trying to disturb their possession. The petitioners-defendants were wrongly claiming family partition. The same was never acted upon by the parties. The suit of the respondents was contested by the petitioners-defendants claiming that the defendants were in exclusive possession. However, before the trial court the petitioners-defendants preferred an application

under Order 7 Rule 11 CPC for rejection of the plaint on the ground that there is no cause of action with the respondents-plaintiffs to file the suit. The said application has been dismissed by the trial court. Hence the present petition has been filed.

Arguing the case, learned counsel for the petitioners has submitted that since the respondents-plaintiffs themselves have admitted in the plaint that they were ousted from the possession of the property, therefore, there is no cause of action available to the plaintiffs. It is further submitted that mere averment in the plaint that the plaintiffs have re-entered into the possession of the said property, without mentioning any specific date, is not a valid ground for filing a suit.

Having heard the counsel for the petitioners and having perused the case file, this court does not find any substance in the arguments of the counsel for the petitioners. Needless to say that while deciding an application, moved under Order 7 Rule 11 CPC, the trial court is only to look at the pleadings in the plaint, as un-contested by the defendant, to see if the cause of action is disclosed in pleadings of the plaintiff. The merits of the case, the veracity of the pleadings or sustainability of the claim of the plaintiff is not to be assessed at the time of decision of the application under Order 7 Rule 11 CPC. A perusal of the plaint filed by the respondents-plaintiffs does show a cause of action, as claimed by them. The plaintiffs have claimed themselves to be co-owner and to be in possession of a portion of the property, with a further assertion that the defendants are trying to dispossess them of the same illegally. Hence, by any means, it cannot be said that the cause of action is not disclosed from the pleadings as raised in the plaint. This court

does not find any illegality or irregularity in the conclusion arrived at by the court below in this regard.

Hence, finding no merits in the present petition the same is dismissed.

7th DECEMBER, 2021
'raj'

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>