

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

116

**Civil Revision No.2826 of 2021
Date of decision: 17.11.2021.**

**M/S DLF HOUSING AND CONSTRUCTION LTD
AND ANR**

...Petitioners

Versus

SHANTI SWAROOP

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Chetan Mittal, Sr. Advocate, with
Mr. Harsh Bungar, Advocate,
for the petitioners.**

ANIL KSHETARPAL, J (Oral)

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

Petitioners, who are defendant no.1 and 2 in the suit for grant of decree of declaration that the plaintiff is mortgagee in possession of an agricultural land comprised in Khewat/Khata No.445/605 Rect. No.26, Killa No.7, measuring 2 kanals and 6 marlas situated within the revenue estate of village Sehola, Tehsil Taoru, District Mewat, assail the correctness of the order passed by the trial court while dismissing their application under Order 7 Rule 11 CPC.

The plaintiff claims that he is a mortgagee in possession of the property and in the alternative, if he is not found in possession, then a decree with respect to possession of the suit land be passed in his favour.

The defendants, on the other hand, claim that they have purchased the property by a registered sale deed dated 02.01.1990. The petitioners had sought the rejection of plaint on various grounds namely

the suit does not disclose any cause of action, the suit is barred by the law of limitations; the proper ad valorem court fee has not been paid on the plaint.

The learned trial court, after examining the contents of the plaint, has found that the plaint does, disclose a cause of action and *prima facie*, from the reading of the plaint, at this stage, it is not appropriate to conclude that the suit is barred by limitation. A perusal of the plaint shows that the plaintiff has asserted that he came to know on 15.09.2015 about the wrong incorporation of the impugned mutation in the revenue record and thereafter, the suit was filed in March, 2017.

The court can exercise powers under Order 7 Rule 11 CPC only when, from the reading of the plaint itself, the plaint is liable to be rejected on the basis of grounds specified in Order 7 Rule 11 CPC. The jurisdiction of the court to reject the plaint at the very threshold is limited and must be exercised judiciously.

Keeping in view the aforesaid facts, no ground to interfere with the order, passed by the trial court, is made out.

Dismissed.

However, since the suit is pending for the last 4 years, therefore, the learned trial court is requested to finally decide the suit within a period of one year.

All the pending miscellaneous applications, if any, are also disposed of.

November 17, 2021
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No