

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

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CR-898-2022 (O&M)

Date of Decision : 15.03.2022

Illyas and Others

...Petitioners

versus

Ibrahim and Others

...Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

ALKA SARIN, J (Oral).

Taken up through virtual mode.

This is a petition under Article 227 of the Constitution of India for setting aside the order dated 21.10.2021 (Annexure P-4) passed by the learned Civil Judge (Junior Division), Faridabad vide which the application dated 03.08.2021 (Annexure P-2) under Order 7 Rule 11 CPC has been dismissed.

Learned counsel for the petitioner would contend that since the consequential relief of possession had not been sought hence the suit itself was not maintainable. It has further been argued that the suit is undervalued and the appropriate court fees has not been appended. The further ground argued by the learned counsel for the petitioner is that the suit is barred by limitation.

Heard.

A perusal of the plaint reveals that question of seeking possession did not arise since the plaintiff-respondents have specifically stated in the plaint that they are owners and in physical possession of the suit land. Further the argument raised by the learned counsel for the petitioner that the suit is undervalued and appropriate court fees has not been affixed is also not

substantiated inasmuch as it has not been shown as to how the suit is undervalued. It is further to be noticed that in the order dismissing the application under Order 7 Rule 11 CPC it has been specifically noticed by the Trial Court that if at any stage of the trial or at the time of passing of the judgment it is found that the plaintiffs are liable to pay the court fees, the same would be directed at that stage. The argument raised by the learned counsel qua limitation cannot be gone into in an application under Order 7 Rule 11 CPC since the same can only be decided after the leading of evidence. No other point has been urged. It is trite that for allowing an application under Order 7 Rule 11 CPC only the plaint has to be seen. On a reading of the plaint, there is no ground made out for entertaining the application under Order 7 Rule 11 CPC.

In view of the above, the petition is accordingly dismissed.

Dismissed.

March 15, 2022
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO