

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

CR-668-2021 (O&M)

Date of decision: 21.09.2022

Jatin Garg

...Petitioner

Versus

Asha Rani and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kashish Garg, Advocate for the petitioner

Mr. Jagjit Singh Gill, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

Defendant no.1 in a suit for declaration claiming that the plaintiff is the joint owner in possession, has come up in the revision petition. The petitioner's application for rejecting the plaint under Order VII Rule 11 (d) of the Code of Civil Procedure, 1908 has been dismissed.

Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook. Learned counsel representing the petitioner contends that the plaintiff (respondent no.1 herein) has also filed an objection petition under Section 47 of the Code of Civil Procedure, 1908, therefore, her subsequent suit is not maintainable.

It is evident that in a previous suit, the court had only ordered the recovery of damages, on account of the injuries caused by the husband of respondent no.1, whereas the present suit is for the grant of decree of declaration that the plaintiff is an owner in the joint possession of the property measuring 2 kanals and 15 marlas.

Under Order VII Rule 11 (d) of the Code of Civil Procedure, 1908, the plaint can be rejected only if from the bare reading of the plaint, the court can conclude that the suit is barred by law. In the present case, the trial court has formed an opinion that it is not possible to return such a finding.

Keeping in view the aforesaid facts, the revision petition is disposed of, while granting liberty to the petitioner to pray for framing of a distinct issue, which shall be decided by the court, after permitting the parties to lead evidence.

Disposed of.

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

21.09.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE