

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

CR-2288-2019 (O&M)

Date of decision: 29.07.2022

Gurdev Kaur and another

....Petitioners

Versus

Narinder Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms.Ruchi Sekhri, Advocate for the petitioners

Mr. Gurcharan Dass, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

The petitioners are defendants in a suit filed for grant of decree of declaration that the plaintiffs are the exclusive owners in possession of the land described in the suit. Undoubtedly, further declaration has been sought that the order passed by the Assistant Collector, First Grade, partitioning the property is null, void and beyond jurisdiction.

An application filed by the defendants under Order 7 Rule 11 of the Code of Civil Procedure, 1908 in order to reject the plaint in view of the bar contained in Section 158 of the Land Revenue Act, 1887 has been dismissed. Challenging the aforesaid order passed by the trial court, the present revision petition has been filed. Section 158 of the Land Revenue Act, 1887 bars the jurisdiction of the Civil court to examine the correctness and legality of the orders passed by the revenue authorities while partitioning the agricultural land. However, in the suit, the plaintiffs are claiming the exclusive ownership. The prayer for

granting decree of declaration with respect to the orders passed by the revenue authorities is consequential. The plaintiff has also prayed for the decree of permanent injunction.

The learned counsel representing the petitioners admit that they are in possession of the said land. The power under Order 7 Rule 11 of the Code of Civil Procedure, 1908, can be exercised only if the court comes to a definite conclusion that the suit is barred by law. It is a well settled principle that under Order 7 Rule 11 of the Code of Civil Procedure, 1908, the plaint cannot be rejected partly. A plaint can either be rejected as a whole or not at all.

Hence, no ground to interfere is made out.

Dismissed.

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

29.07.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE