

**In the High Court of Punjab and Haryana, at Chandigarh**

**Civil Revision No. 2283 of 2019 (O&M)**

**Date of Decision: 31.08.2022**

Vinod Anand and Another

... Petitioner(s)

Versus

Sumesh Anand

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Anil Kshetarpal.**

Present: Ms. Puja Chopra, Advocate  
for the petitioner(s).

Mr. Harish Sharma, Advocate  
for the respondent.

**Anil Kshetarpal, J.**

1. While assailing the correctness of the interlocutory order passed by the trial Court, the defendants have come up in revision. Their application under Order VII Rule 11 CPC to reject the plaint, at the threshold, has been dismissed. The plaintiff has filed a suit for declaration that he is owner in possession of the property on the basis of the sale deed dated 10.05.2002.

2. Heard the learned counsel representing the parties and with their able assistance, perused the paper-book.

3. The learned counsel representing the petitioners, while drawing the attention of the Court to the order passed in *Vinod Anand v. Deputy Commissioner-cum-Appellate Tribunal and Others (Civil Writ petition No. 24252 of 2014 decided on 23.09.2015)*, contends that the respondent has been held entitled to possession pursuant to the order passed by the authorities under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as “the 2007 Act”). She submits that the aforesaid order was upheld by the Division Bench. She further submits that the total area of the property is 500 square yards, out of which 250 square yards of the property was purchased by the plaintiff

Sh.Sumesh Chand (respondent herein), whereas, the remaining 250 square yards was purchased by Smt.Vinod Anand. She further submits that in an application, the authority under the 2007 Act has ordered partition.

4. This Court has considered the submission that while deciding the application under Order 7 Rule 11CPC, the Court is required to examine the contents of the plaint. The plaintiff has filed a suit for declaration under Section 34 of the Specific Relief Act, 1963.

5. In *Rohit Dhawan and Another v. Reeta Dhawan and Others (Regular Second Appeal No. 1364 of 2021, decided on 23.11.2021)*, this Court, after noticing that there is a conflict of opinion with regard to the scope of jurisdiction of the Tribunal constituted under the Rules framed and the matter has been referred to the Larger Bench, held that the jurisdiction of the Civil Court, being plenary, cannot be held to be absolutely barred to decide a civil dispute while relying upon *Dhulabhai etc. vs. State of Madhya Pradesh and another, AIR 1969 SC 78*.

6. Keeping in view the aforesaid facts, the present revision petition is dismissed. However, the petitioners shall be at liberty to pray for framing of a distinct issue which shall be decided by the Court below without being influenced by the orders passed by this Court as well as the Authority under the 2007 Act.

7. The miscellaneous application pending, if any, shall stand disposed of.

(Anil Kshetarpal)  
Judge

August 31, 2022  
“DK”

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