

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No.2335 of 2020 (O&M)

Date of Decision: 07.09.2022

Ashok Kumar and Another

... Petitioner(s)

Versus

Krishna Devi and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Ajay Jain, Advocate
for the petitioner(s).

Mr. Rajiv Sharma, Advocate
for the respondent No.1.

Mr. Jaspal Singh Pannu, Assistant Advocate General,
Haryana, for the respondent No.2 to 4.

Anil Kshetarpal, J.

1. An application of the petitioners (defendants), in a suit for declaration with a consequential relief of permanent injunction, under Order VII Rule 11 of the Code of Civil Procedure, 1908 (hereinafter referred to as “CPC”) for rejection of the plaint, at the outset, has been dismissed.

2. The plaintiff is a sister of late Sh.Hans Raj and has claimed her ownership on the property left behind by him. It has been asserted by the plaintiff that petitioner No.2-Smt.Subhash Kumari did not fulfill the matrimonial obligations and left the matrimonial home along with the defendant No.1. In a previous round of litigation, in Civil Suit No. 247 of 2015, a settlement was arrived at, according to which the defendant No.1 and 2 settled their share to the extent of 32 kanals while giving up their

rights in the remaining part of the property left behind late Sh.Hans Raj. The Court passed the decree in accordance with the same. The petitioners (defendant No.1 and 2) claim that the plaintiff (respondent) is only a Class-II heir, therefore, in the presence of class-I heirs, her suit is not maintainable.

3. At the stage of deciding an application under order VII Rule 11 CPC, the Court is only required to examine the assertions made in the plaint. In the present case, the plaintiff, while filing the suit, has asserted that in view of the settlement arrived at between the parties, the defendant No.1 and 2 (petitioners herein) have no right on the remaining property of late Sh.Hans Raj. This matter shall be required to be adjudicated after the parties are permitted to lead evidence.

4. Keeping in view the aforesaid facts, no ground is made out to interfere. Hence, the present revision petition is dismissed. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

September 07, 2022
“DK”

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