

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

CR-5331-2022(O&M)

Date of decision:-24.11.2022

Mewa Singh and others

...Petitioners

Versus

Tehal Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Jaideep Verma, Advocate
for the petitioners.

H.S. MADAAN, J.(ORAL)

1. Briefly stated, facts of the case are that plaintiffs Tehal Singh and Chaman Singh both sons of Sh.Jang Singh had brought a suit against defendants Mewa Singh and others seeking a declaration that their father Sh.Jang Singh is owner in possession of the suit property situated at village Sasrali, Tehsil and District Ludhiana, as per the orders passed passed by the revenue authorities in the year 2010 and at present plaintiffs are in possession of the same since Sh.Jang Singh is missing and the revenue entries got recorded by defendants in connivance with the revenue officials are wrong, illegal and are liable to be corrected by incorporating name of Sh.Jang Singh in column of ownership and possession in the jamabandi and khasra girdawari.

2. On getting notice, the defendants put in appearance. Defendant Mewa Singh and others had filed an application before the trial Court seeking rejection of the plaint in terms of Order 7 Rule 11 CPC contending that the plaintiffs had filed the suit on behalf of Jang Singh without getting him declared as dead and the averments in the plaint do not disclose any cause of action; the suit is hopelessly time barred having been filed after 42 years to challenge the sale deed executed in favour of defendants.

3. The application was opposed by the plaintiffs.

4. After hearing counsel for the parties, the trial Court of Civil Judge(Jr.Divn.), Ludhiana vide the impugned order dated 9.8.2022 dismissed the application, which left the defendants aggrieved and they have filed the present revision petition.

5. I have heard learned counsel for the revisionists besides going through the record and I find that there is no merit in the revision petition.

6. As regards the pleas raised by the revisionists/defendants in the application under Order 7 Rule 11 CPC, those cannot be appreciated properly without recording evidence and plaintiffs are required to be given adequate opportunities to produce evidence in support of their case and the defendants can lead evidence in rebuttal. At this stage, when the suit is at preliminary stage, it cannot be said that the plaint does not disclose any cause of action or that suit is barred by limitation etc. Therefore, at this stage, rejection of the plaint is not called for and the trial Court by passing a detailed and well reasoned order has rightly rejected the application filed

on behalf of the defendants. I do not find any illegality or infirmity therein. The impugned order is upheld finding no reason to interfere with the same by exercising revisional jurisdiction.

7. As regards the authorities i.e. *Dahiben Versus Arvinbhai Kalyanji Bhanusali (Gajra((D) Thr. LRs & Ors., 2020(4) Civil LJ 562, Kamala & Ors. Versus K.T. Eshwara Sa & Ors., 2008(3) RCR(Civil) 199* and *Popat and Kotecha Property Versus State Bank of India Staff Association, 2005(4) RCR(Civil) 334* referred to by learned counsel for the revisionists, those do not find application to the present case due to different facts and circumstances and the context in which such observations had been made.

8. Thus, finding no merit in the civil revision petition, the same stands dismissed.

24.11.2022
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No