

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R. No. 22 of 2023 (O&M)

Date of decision : 12.1.2023

...

Firoz Khan and another

.....Petitioners

vs.

Sarup Singh and another

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. M.K. Dhot, Advocate for the petitioners.

...

H. S. Madaan, J.

1. Briefly stated, facts of the case are that, plaintiff – Sarup Singh, aged about 83 years and his wife Joginder Kaur, both residents of Gobind Nagar, Nayagaon, SAS Nagar, Punjab, had brought a suit against Firoz Khan and his wife Priyanka, residents of that very area, seeking a declaration that sale deed dated 9.3.2020 executed by Priyanka in favour of Firoz Khan, is illegal, null and void and is result of fraud, executed in the garb of GPA dated 9.5.2019 with regard to 6 Marla of land situated at village Karoran, besides craving for grant of permanent injunction.

2. On getting notice, both the defendants appeared and filed written statement, contesting the suit. They had moved an

application under Order 7 Rule 11 CPC, seeking rejection of the plaint on various grounds, i.e. i) the plaint is insufficiently stamped; ii) that the plaint does not disclose any cause of action; iii) that the suit is barred by limitation and iv) that the suit is hit by the principle of res judicata.

3. The application was contested by the plaintiffs. The trial Court vide impugned order dated 18.11.2022, dismissed the application observing that the limitation is a point of law, as well as fact, which can be ascertained by appreciation of evidence and for that reason, the plaint cannot be rejected in a summary manner. Similarly, the question as to whether the suit is barred by res judicata, can be adjudicated only after recording of evidence. Regarding the objection that suit is not properly valued for the purposes of court fee and jurisdiction, the Court observed that the plaintiffs are claiming themselves to be in possession of the suit property and not seeking relief of possession, in that way seeking a declaration in that regard, besides praying for relief for permanent injunction. They are not asking for possession of the suit land. The sale deed, GPA and agreement to sell, are being challenged on the ground of fraud. Therefore, advolrem court fee is not payable. Reference to the Judgment by this Court in case *Rambai vs. Kapoori and another* *2014 (4) RCR (Civil) 377*, in that regard has been made. Therefore, the application was rejected, leaving the defendants aggrieved, who have approached this Court, by way of filing the present revision petition.

4. I have heard learned counsel for the revision petitioners, besides going through the record and I find that there is absolutely no merit in the revision petition.

5. The impugned order is quite detailed and well reasoned. It does not suffer from any illegality or infirmity, which might have warranted interference by this Court, by exercising the revisional jurisdiction.

6. Therefore the revision petition is doomed for failure and is dismissed accordingly.

(**H.S. Madaan**)
Judge

12.1.2023
chugh

Whether speaking / reasoned Yes / No

Whether reportable Yes / No