

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

CR-4739-2017(O&M)

Date of decision:-22.2.2023

Suresh Kumar and another

...Petitioners

Versus

Sanjeev Singla and others

...Respondents

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

Present: Mr.Anurag Gupta , Advocate
for the petitioners.

Mr.Pritam Saini, Advocate
for respondent No.1.

H.S. MADAAN, J.

1. Being impugned in this revision petition is order dated 27.4.2017 passed by Civil Judge (Jr.Divn.), Pehowa in civil suit titled 'Sanjeev Singla Versus Naresh Kumar etc.' vide which an application under Order 7 Rule 11 CPC moved by defendants Suresh Kumar and Yogesh Kumar had been dismissed.

2. Briefly stated, facts of the case are that plaintiff Sanjeev Singla had brought a suit against defendants Naresh Kumar and others seeking a declaration that the impugned judgment and decree dated 8.4.1991 passed in Civil Suit No.322/91 titled as 'Vidya Sagar Versus Rajender Dass' are totally illegal, null and void besides craving for possession by mandatory injunction.

3. On getting notice, the defendants had appeared. Defendant No.8 Suresh Kumar and defendant No.10 Yogesh Kumar had filed an

application under Order 7 Rule 11 CPC seeking rejection of the plaint contending that the plaintiff has fixed the tentative value of the suit property to be Rs.5 lakhs paying a Court fee of Rs.31,300/- thereon; in fact the value of the suit property is not less than Rs.20 lakhs and ad valorem Court fee is liable to be affixed thereon. The second ground taken was that in fact the impugned judgment and decree of exchange were passed on the basis of a compromise and under law no suit lies seeking setting aside of decree on the ground that the compromise on which the decree is based was not lawful.

4. That application was resisted by the plaintiff and vide impugned order dated 27.4.2017, the trial Court had dismissed the application, leaving such defendants No.8 and 10 aggrieved and they have approached this Court by way of filing the present revision petition, notice of which was issued to the respondent No.1, who had put in appearance through counsel.

5. I have heard learned counsel for the parties besides going through the record.

6. Learned counsel for the revision petitioners has argued as per the objections taken in the application under Order 7 Rule 11 CPC. In support of his contentions, he has referred to judgments *M/s Sree Surya Developers and Promoters Versus N.Sailesh Prasad & Ors., 2022(2) Civil Court Cases 226(S.C.), Gurcharan Singh & Ors. Versus Angrez Kaur & Anr., 2021(1) Civil Court Cases 242(S.C.), Horil Versus Keshav & Anr., 2012(1) Apex Court Judgments 201(S.C.)* and *R.Rajanna Versus S.R. Venkataswamy & Ors., 2015(1) Law Herald (P&H) 56(SC).*

7. Whereas learned counsel for the respondent No.1 has contended that the grounds taken in the application are without any merit and no reason is there to reject the plaint. He has also referred to judgments i.e. Surjit Singh and others, Versus Ranjit Singh, 2020(1)Law Herald 869, Kashmira Singh (died) Versus Gram Panchayat of village Budha Khera, 2000(1) RCR(Civil)715, Gurdev Kaur and another Versus Mehar Singh and others, 1989(2) RCR(Rent) 625, Ram Kishan and others Versus Smt.Sardari Devi and others, 2002(4) RCR(Civil)837 and Karnail Singh and others Versus Dalip Kaur and others, 1995(3) PLR 332.

8. After considering the rival contentions, I find that there is absolutely no merit in the revision petition. The trial Court has rightly observed that in order to find out the real market value of the property, the parties would be required to lead evidence and only then a firm conclusion can be reached, therefore at this stage, the plaint could not be rejected for the reason that the suit was not properly valued for the purpose of Court fee.

With regard to the second ground, though as per law no litigant, who had entered into compromise in the earlier litigation based upon which a decree was passed, can challenge the said compromise or decree ordinarily, but such challenge can certainly be made on the ground of fraud and misrepresentation and in the present suit, the plaintiff has precisely taken such plea. Therefore, there is no bar to challenge the judgment and decree by way of filing a separate suit. The plaint can certainly be not rejected under the circumstance. The prayer made by the

defendants revision petitioners was rightly declined by the trial Court.

9. The impugned order passed by the trial Court is quite detailed and well reasoned and it does not suffer from any illegality or infirmity and is not having any element of arbitrariness or perversity. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction.

10. As regards the judgments referred to by learned counsel for the petitioners, the same are not applicable to the present case due to different facts and circumstances of the case and the context in which such observations had been made.

11. Finding no merit in the revision petition, the same stands dismissed.

The interim order dated 24.7.2017 passed by this Court directing that further proceedings in the trial Court shall remain stayed thus comes to an end.

Since the main revision petition has been dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

22.2.2023
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No