

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**CR No.1484 of 2019 (O&M)
Date of Decision : 17.01.2023**

Assa Singh

....Petitioner

VERSUS

Rajvir Singh & Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sandeep Arora, Advocate for the petitioner.

Mr. G.S. Nagra, Advocate for respondent no.1.

ALKA SARIN, J. (Oral)

The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 05.12.2018 vide which the application filed by the petitioner for rejection of the plaint under Order VII Rule 11 of the Code of Civil Procedure, 1908 has been dismissed.

The brief facts relevant to the present *lis* are that plaintiff-respondent no.1 filed a suit under Section 38 of the Specific Relief Act, 1963 for permanent injunction restraining the defendants from raising any type of construction over the property measuring 10 marlas, which is joint property of Mohinder Singh father of plaintiff and defendant no.1, Assa Singh, situated in the *abadi/Lal Lakir* of village Khurampur, Mehatpur, Tehsil Nakodar, as described in detail in the plaint. Para 2 of the plaint reads as under :

“2. That in this property Assa Singh and his family resides in ground floor of the house whereas the Mohinder Singh and his family resides at first floor. Elect. connection is in the name of Mohinder Singh. Mohinder Singh at present residing abroad and plaintiff

is looking after his property being son. Photocopies of three elect. bills and receipts, photocopy of Aadhaar card of plaintiff and Mohinder Singh, photocopy of Ration card and voter card of Mohinder Singh are attached.”

An application was filed by the defendant-petitioner for rejection of the plaint on the ground that the defendant-petitioner was in exclusive possession of the property and that the plaintiff-respondent no.1 had not approached the Court with clean hands and was guilty of suppressing material facts. Vide the impugned order the said application was dismissed by the Trial Court.

Learned counsel for the defendant-petitioner would contend that the defendant-petitioner is in exclusive possession of the property and the present suit has been filed only to harass the defendant-petitioner.

Per contra learned counsel for the plaintiff-respondent no.1 would contend that the application has rightly been dismissed and that no ground of allowing the application under Order VII Rule 11 CPC is made out.

Heard.

It is trite that while deciding an application under Order VII Rule 11 CPC only the contents of the plaint are to be seen. The stand of defendant-petitioner that he is in exclusive possession of the property is not a fact which can be ascertained from a meaningful reading of the plaint. In fact a categorical assertion has been made in the plaint that the property is the joint ownership of the parties as the property belongs to the father of the

parties and the electricity connection is also in the name of the father of the parties. On a pointed query to learned counsel for the defendant-petitioner as to whether from a meaningful reading of the plaint it could be ascertained that the defendant-petitioner was in exclusive possession of the property, the response is in the negative.

In view of the above, I do not find any illegality or infirmity in the impugned order passed by the Trial Court. The present revision petition being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off. It is made clear that any observation made herein shall not be treated as an expression of opinion of this Court on the merits of the case.

Dismissed.

17.01.2023
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO