

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R. No.3532 of 2021 (O&M)

Date of Order:12.12.2023

Sadhu Singh and another

.Petitioners

Versus

Teja Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Ms. Bhavna Kapur, Advocate
for the petitioners.**

**Mr. Avtar Singh Khinda, Advocate
for respondent no.1 and 2.**

ANIL KSHETARPAL, J

1. In the pending suit, the petitioners herein are the defendants. Their application under Order VII Rule 11 CPC to reject the plaint has been dismissed. The correctness of the aforesaid order has been challenged in this revision petition.

2. The learned counsel representing the petitioners while referring to the copy of the plaint submits that in a previous suit, the possession of the property was delivered to the defendants in the execution of the decree. She further submits that similar objection which was taken before the Executing Court by the respondents (plaintiffs) has also been rejected,

3. This court has considered the submissions of the learned counsel representing the parties.

4. At the stage of considering the application for the rejection of the plaint under Order VII Rule 11 CPC, only the assertions made by the plaintiffs in the plaint are required to be examined. The plaintiffs themselves while filing the suit have pleaded that the defendants under the

pretext of the execution of the judgment and decree dated 03.11.2010, have also taken over the possession of land measuring 2 kanals along with 80 Eucalyptus trees standing thereon. It is the case of the plaintiffs that the aforesaid 2 kanals land was not a part of the previous suit filed by the defendants.

5. In substance, the petitioners (defendants) challenged the maintainability of the suit on various grounds. The learned counsel representing the petitioners has found that the plaint cannot be rejected at the very threshold keeping in view the assertions made in the plaint.

6. This court does not find that the conclusion drawn by the trial court is erroneous. The defendants are required to lead evidence to prove their case. It will not be appropriate for the court to reject the plaint unless the court is certain that the suit is not maintainable in view of the grounds specified under Order 7 Rule 11 CPC.

7. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

8. Dismissed.

9. All the pending miscellaneous applications, if any, are also disposed of.

December 12, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO