

CR-6324 of 2023

2023:PHHC:137651

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

CR-6324 of 2023

Date of decision: 20.10.2023

Jasvinder Singh

.....Petitioner

Versus

Manjeet Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. V.S. Rathee, Advocate,
for the petitioner.

NAMIT KUMAR, J.

1. Instant revision petition has been filed by the petitioner under Article 227 of the Constitution of India challenging the order dated 22.09.2023 (Annexure P-4) passed by the Court of learned Civil Judge (Junior Division), Sonipat, whereby application filed by him under Order 7 Rule 11 read with Section 151 CPC for rejection of plaint, has been dismissed.

2. Brief facts leading to the filing of the present revision petition are that respondent-plaintiffs filed a suit for possession by way of partition with consequential relief of permanent injunction under Sections 38 and 37 of the Specific Relief Act for restraining the petitioner-defendant from selling the shares of the respondent-plaintiffs. Upon notice, petitioner-defendant put in appearance and filed application under Order 7 Rule 11 read with Section 151 CPC for

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rejection of the plaint. The said application has been dismissed by the Court of learned Civil Judge (Junior Division), Sonipat, vide impugned order dated 22.09.2023.

3. Learned counsel for the petitioner contended that the trial Court has erred in dismissing the application filed by the petitioner. He further contended that trial Court failed to appreciate that respondent-plaintiffs did not disclose the cause of action as they have no ownership or title over the suit property, therefore, the plaint is liable to be dismissed. He further contended that the suit filed by the respondent-plaintiffs is not maintainable, barred by law and since they have not been able to prove their ownership, hence they have no right to file the suit for partition. He further contended that the impugned order being perverse is liable to be set aside.

4. I have heard learned counsel for the petitioner and perused the record.

5. Respondent-plaintiff has filed suit for possession by way of partition of the suit property on the ground that mother of the parties to the suit, namely, Surjeet Kaur (deceased) was the owner in possession of the property and before her death she executed a 'will' No.510 dated 04.09.2012 and relinquished her share in the suit property in favour of respondent-plaintiffs and petitioner-defendant equally being her sons. Question with regard to ownership of the suit property shall be decided after appreciation of evidence during the trial and trial Court has rightly observed that no plaint can be rejected solely on such ground. The trial Court has to decide the same on merits after

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considering the evidence adduced by the parties. Moreover, the respondent-plaintiffs have sufficiently disclosed the cause of action to file the suit. Therefore, application of the petitioner has rightly been dismissed by the trial Court.

6. The impugned order passed by the trial Court is 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.

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

20.10.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No