

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

134

2023:PHHC:162495

CR-5975-2022

Date of decision: 18.12.2023

**GURMUKH SINGH (DECEASED) THROUGH
LRS AND ANOTHER**

..Petitioners

Versus

AMARJIT SINGH AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

Mr. Amarjit Singh (respondent No.1)
in person.

ANIL KSHETARPAL, J(Oral)

1. While refusing to reject the plaint at the very threshold, the trial Court has dismissed the petitioners (defendants) application under Order VII Rule 11 Code of Civil Procedure, 1908,. The correctness of the aforesaid order has been challenged in this revision petition.

2. This Bench has heard the learned counsel representing the petitioner and the respondent No.1 (Sh. Amarjit Singh), who appeared in person.

3. The learned counsel representing the petitioner contends that this is the fifth suit filed between the parties and therefore, the suit is essentially barred by the doctrine of res judicata as defined in Section 11 of the Code of Civil Procedure, 1908, as also under Order XXIII Rule 1 of the Code of Civil Procedure, 1908.

4. On the other hand, the respondent, who appeared in person contends that he wants interpretation and implementation of the judgments

passed in the earlier suits and the plea of res judicata cannot be made the basis to reject the plaint at the very threshold.

5. This Court has considered the submissions.

6. The prayer made in the suit reads as under:-

“It is therefore respectfully prayer that a decree for declaration to the effect that the plaintiffs are entitled for 12 marlas land out of 47 Marlas in Khasra No.253/1(2-7), and Khasra No.253(0-12), situated at Village Kumbra, Tehsil & District S.A.S. Nagar (Mohali) as per the agreement of partition dated 13.07.1981 as well as right interpretation of judgment dated 09.08.2016 passed by the Additional District Judge, Sh. Tarsem Mangla, SAS Nagar (Mohali). As per the agreement of partition dated 13.07.1981 as well as right interpretation of judgment dated 09.08.2016 passed by the Additional District Judge, Sh. Tarsem Mangla, SAS Nagar (Mohali) Khasra No.338(18 Marla) falls in the share of plaintiffs but defendants illegally and unlawfully received the compensation of 12 Marlas land from the PUDA/GMADA for acquisition of the Khasra No.338(18 Marla), And further suit for declaration to the effect that the plaintiffs are owner in possession of Khasra No.256(1-0) situated at Village Kumbra, Tehsil & District SAS Nagar (Mohali) as per the agreement of partition dated 13.07.1981 as well as the right interpretation of the judgment dated 09.08.2016 passed by the Additional District Judge, Sh. Tarsem Mangla, SAS Nagar (Mohali) and suit for permanent injunction restraining the defendants and their agents, assignees, representatives from alienating the suit property by way of sale, gift, mortgage or creating any charge over the suit property in any manner, in favour of plaintiffs against the defendants, in the interest of justice.”

7. The plea of suit being barred by res judicata or under Order XXIII Rule 1 of the Code of Civil Procedure, 1908, is required to be decided on appreciation of material placed on record and not just by merely reading the pleadings of the parties.

8. This is required to be adjudicated after the parties have led their evidence.

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9. Keeping in view the aforesaid facts, no ground to interfere is made out.
10. Dismissed accordingly
- 11 All the pending miscellaneous applications, if any, are also disposed of.

December 18th, 2023
Ay

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*