

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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2024:PHHC:044633

CR-1567-2023
Date of decision: 03.04.2024

BIMLA AND ORS. ..Petitioners

Versus

KHUSHAL ..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

ANIL KSHETARPAL, J(Oral)

1. The petitioners herein are the defendants in a pending suit filed by the plaintiff for grant of decree of declaration with consequential relief of permanent injunction. In substance, the plaintiff claims to be A coparcener and he claims share in the coparcenary property. The petitioners (defendants) are members of the same family. The petitioners filed an application under Order VII Rule 11 of the Code of Civil Procedure, 1908, to reject the plaint at the threshold on the ground that such suit is not maintainable because the property has fallen to the share of heirs as per Section 8 of the Hindu Succession Act, 1956, and therefore, the property is not coparcenary. Such aspect is yet to be proved by the defendants.
2. The plaint can be rejected at the threshold only when there is a statutory bar to the maintainability of the suit. Rejection of the plaint at the threshold has very serious consequence. The Court cannot reject the plaint on the basis of the evidence, which may be led by the parties or the defence, which may be taken by the defendants in their written statement. Only the assertions in the plaint are required to be examined at this stage.
3. Hence, no ground to interfere is made out.

- 4. Dismissed accordingly.
- 5. All the pending miscellaneous applications, if any, are also disposed of.

April 03rd, 2024

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No