

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****126****CR-1810-2024 (O&M)****Date of Decision : 12.12.2024**

Balkar Singh

....Petitioner

VERSUS

Gulwinder Singh

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Shadab Ahmed, Advocate for the petitioner.

ALKA SARIN, J. (Oral)

1. Present revision petition has been filed challenging the order dated 20.02.2024 whereby the application filed by defendant No.4 (petitioner herein) under Order VII Rule 11 of the Code of Civil Procedure, 1908 has been dismissed.

2. The brief facts relevant to the present *lis* are that the plaintiff-respondent herein filed a suit for possession in respect of the land as detailed in the plaint as also for permanent injunction restraining the defendants from alienating the suit land. Written statement was filed by the defendant No.4-petitioner herein raising preliminary objections as well as *inter alia* stating that the suit has been filed on the basis of forged documents. An application was filed under Order VII Rule 11 CPC wherein it was stated that there is no cause of action against defendant No.4-petitioner and also that the suit was barred by limitation. Reply was filed to the said application. Vide the impugned order dated 20.02.2024 the application was dismissed.

3. Learned counsel for the defendant No.4-petitioner would contend that no cause of action is made out against defendant No.4-

petitioner and that he has no role to play in the present suit and he has wrongly been impleaded as a party.

4. Heard.

5. In the present case, though the case of the defendant No.4-petitioner is that he is not a necessary party, however, in the plaint there is specific reference to the land of the defendant No.4-petitioner and also of his father which land is part of the suit land. Counsel for the defendant No.4-petitioner argued that the plaintiff-respondent is seeking to take possession of the inherited land on the basis of forged documents. That being so, it cannot be said that there is no cause of action against the defendant No.4-petitioner. The veracity of the documents can only be gone into during the trial.

6. Learned counsel for the defendant No.4-petitioner during the course of arguments also raised an argument that *ad valorem* court fee has not affixed and hence, the suit was liable to be rejected under Order VII Rule 11 CPC. A perusal of the application filed under Order VII Rule 11 CPC reveals that no such ground was raised by the defendant No.4-petitioner nor was it argued before the Trial Court. Even in the grounds of revision the said ground was not being raised. In view thereof, the argument stands rejected.

7. In view of the above, present revision petition being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

12.12.2024
jk

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