



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

**CR-3157-2024**

Date of Decision: 22.05.2024

Narender @ Narinder Singh

...Petitioner

Versus

Mahender Singh and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE GURBIR SINGH**

**Present:** Mr. Vivek Suri, Advocate and  
Mr. Dushyant Godara, Advocate and  
Mr. Darpan Bansal, Advocate for the petitioner.

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**GURBIR SINGH, J. (ORAL)**

1.                    The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 19.03.2024 passed by the Ld. Civil Judge (Jr. Division), Rohtak in Civil Suit No.239 of 2024 titled as “Mahender Singh & another Vs. Kapoor Singh and others” whereby the application filed by the petitioner-defendant No.2 under Order 7 Rule 11 read with Section 151 CPC, has been dismissed.

2.                    The brief facts of the case are that respondent Nos.1 and 2 filed the suit for separate possession by way of partition and permanent injunction stating therein that they are co-owners in joint possession of the suit property. Upon notice petitioner-defendant appeared and filed an application under Order 7 Rule 11 CPC, which was dismissed by the trial Court.

3.                    Learned counsel for the petitioner has argued that suit of the respondents-plaintiffs is barred by limitation and there is no cause of action accrued to the respondents-plaintiffs to file the suit.

4. I have heard the submissions of the learned counsel for the petitioner and perused the paper-book.

5. The suit has been filed for separate possession by way of partition and permanent injunction on the ground that parties are co-owners and in joint-possession of the suit property. The property was inherited from the grandfather. The law is well settled for deciding the application under Order 7 Rule 11 CPC that only averments made in the plaint are to be seen. The suit has been filed on the ground that parties are co-owners and in joint possession of the suit property. A person claiming that he is co-owner in joint possession of the property can claim partition. It is a question of evidence whether plaintiff is able to prove that he is co-owner and in joint possession of the property or not. Further, the case of the respondents-plaintiffs is that defendants refused to get the property partitioned. The suit is filed on the basis of the specific cause of action. The suit on the face of it cannot be considered as barred by limitation.

6. Accordingly, there is no merit in the present revision petition and the same is dismissed in limine.

7. The above mentioned observations are only for the purpose of disposal of this revision petition and has no effect on the merit of the case.

**22.05.2024**

*Parveen kumar*

**(GURBIR SINGH)  
JUDGE**

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