



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

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CR-3179-2024

Date of Decision: 07.08.2024

Satvir Singh

....Petitioner

Versus

Mandeep Kaur and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Ranjit Singh Sidhu, Advocate
for the petitioner.

VIKAS SURI, J.(Oral)

1. This petition has been filed by Satvir Singh (husband) under Article 227 of the Constitution of India for setting aside order dated 08.11.2023 (Annexure P-4) passed by learned Principal Judge (Family Court), Sangrur, Camp at Dhuri, whereby his application under Order 7 Rule 11 CPC, for rejection of plaint has been dismissed.

2. Briefly stated, the respondents, i.e. wife and minor daughter, have filed a petition under Section 18 of the Hindu Adoption and Maintenance Act, 1956 for grant of maintenance allowance to the applicants and for creating a charge over the property measuring 19 *kanals* 17 *marlas* 3 *sarsahies*, situated at Village Benra-B, Tehsil Dhuri, District Sangrur, and for decree of permanent injunction restraining the respondent from alienating/mortgaging or disposing of the property detailed therein.



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3. Upon notice, petitioner herein moved an application under Order 7 Rule 11 CPC seeking rejection of the plaint. The sole contention raised in the said application was that the respondents by clever drafting have not mentioned the value for the purposes of court fee and jurisdiction qua the relief claimed in the plaint. According to petitioner, the said value comes to Rs.36,00,000/- and an *ad valorem* court fee was required to be affixed on the said amount, which has not been done. The learned Principal Judge (Family Court), after considering rival contentions dismissed the same in the light of the decision in ***Balwinder Singh vs. Sinderpal Kaur and another*, 2019(4) RCR (Civil) 720** and ***Sucheta Garg and others vs. Vineet Garg and others*, 2023 LiveLaw (PH) 221**, wherein it has been held that a claim under the provisions of Hindu Adoption and Maintenance Act, 1956, does not fall in the category of Section 7 of the Court-fees Act, 1870 and *ad valorem* court fee is not leviable on the claim made therein, as such. Learned counsel for the petitioner contends that the said petition is also liable to be dismissed on the ground that the respondents have not approached the Court with clean hands. The intention of respondents is not to claim maintenance, as for the said purpose, they have already filed a petition under Section 125 Cr.P.C. which is pending but the real intent is to create a charge upon the property.

4. Having heard learned counsel for the petitioner and gone through the record, this Court does not find favour with the argument raised. A perusal of the application filed under Order 7 Rule 11 CPC (Annexure P-2) shows that the only ground raised therein was non affixation of *ad valorem* court fee. A plea that has not been raised before the Court below cannot be permitted to be



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raised before the Court in revisional jurisdiction and as such the same is liable to be noticed and rejected.

- 5. No other argument has been advanced.
- 6. Learned counsel for the petitioner has not been able to point out any patent illegality, infirmity or perversity in the impugned order so as to warrant any interference.
- 7. Hence, the present petition sans merit, is dismissed in *limine*.

August 07, 2024
Varinder

(VIKAS SURJ)
JUDGE

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