



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

119

CR-5147-2024

Date of Decision: 09.09.2024

Harbans Singh and others

...Petitioners

Versus

Tarsem Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. Vikas Gupta, Advocate,
for the petitioner.

VIKAS SURI, J. (ORAL)

1. Through this petition under Article 227 of the Constitution of India, petitioners assail the order dated 02.07.2024 passed by learned Civil Judge (Junior Division), Tarn Taran, whereby the application filed by them under Order 7 Rule 11 read with Section 151 of the Code of Civil Procedure, 1908 (for short, "CPC"), has been dismissed.

2.1 Brief facts of the case relevant for adjudication of the instant petition are that the petitioners have been arrayed as defendant Nos.1, 4 and 5 in a suit for joint possession in respect of land measuring 6 marlas, on which one shop measuring 16'-6" in width and 30' in length has been built, and further for grant of permanent injunction restraining defendants from alienating the suit property or any part thereof.



2.2 Upon notice of the suit, the petitioners moved an application under Order 7 Rule 11 CPC for rejection of the plaint. It is averred that defendant Nos.1, 4 and 5 are neither owners nor in possession of the suit property. Petitioner Nos.2 and 3 (defendant Nos. 4 and 5 in the said suit) are only attesting witnesses of the sale deed with regard to land measuring 3 marlas 1 sarsahi, sold by the plaintiff's wife in favour of defendant Nos.2 and 3. No cause of action has arisen against the petitioners and the respondent-plaintiff has filed a false and frivolous case, wherein he has intentionally arrayed the petitioners as defendants to harass and humiliate them unnecessarily. The respondent-plaintiff opposed the said application by filing reply thereto. It was reiterated that the defendants entered into illegal possession over the suit land measuring 6 marlas without any right or title.

2.3 The trial Court, on consideration of the pleadings and rival submissions advanced on behalf of the parties, dismissed the application vide order dated 02.07.2024.

2.4 Aggrieved by the said order, the petitioners have approached this Court impugning the same.

3. Learned counsel for the petitioners has argued that the petitioners have categorically pleaded that they are neither the owners nor in possession over the suit property and petitioner No.1 has been arrayed as defendant No.1 in the suit, being the father of defendant Nos.2 and 3, i.e. the contesting defendants, who have purchased the property measuring 3 marlas



1 sarsahi from the plaintiff's wife and petitioner Nos.2 and 3 are the attesting witnesses of the said sale deed.

4. Heard learned counsel for the petitioners and perused the record with his able assistance.

5. It is well settled that to adjudicate upon an application under Order 7 Rule 11 CPC, only the contents of the plaint are to be looked into. Neither any averments in the written statement nor those made in the application seeking rejection of the plaint can be taken into consideration. Perusal of the plaint (Annexure P-1) would show that the allegations have been made against all the defendants in paras 2 to 4 thereof. In para 5 of the plaint, it has been categorically averred that the plaintiff-respondent requested the defendants to admit his claim over the suit land but they finally refused to do so a week prior to the institution of the suit and thus, cause of action has arisen in favour of the plaintiff and against the defendants. The aforesaid pleadings/averments are yet to be proved during the course of trial. At the present stage, no case for rejection of the plaint has been made out, even on the ground that no cause of action has arisen against the petitioners. The veracity of the averments made in the plaint can be decided only after the parties have led their respective evidence.

6. In the light of the above and the settled legal principles, this Court is of the view that the present case is not one of a kind wherein the trial has to be truncated at the initial stage. The plain reading of the plaint would show that cause of action has been pleaded against the petitioner-



defendants and whether the same can be sustained or not would be the matter of trial.

7. Accordingly, taking into consideration all the relevant factors, this Court is of the opinion that the impugned order dated 02.07.2024 does not suffer from any infirmity or illegality that may warrant interference.

8. Resultantly, the present petition being devoid of merit, is dismissed.

9. Pending applications, if any, also stand disposed of.

September 09, 2024
harish

(VIKAS SURI)
JUDGE

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