

2024:PHHC:036116
**126 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CM-2266-CII-2024
CM-2268-CII-2024
in/and
CR-4841-2022 (O&M)
Date of decision: 13.03.2024**

Rajesh Kumar and others

....Petitioners

Versus

Narender Kumar and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. R.K.Girdhwal, Advocate for the applicants/petitioners

ANIL KSHETARPAL, J (Oral)

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1. For the reasons stated in the application, the delay of 47 days in filing the application for restoration of the revision petition is condoned.

2. CM stands allowed.

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3. For the reasons stated in the application, order dated 17.11.2023 is recalled. CM allowed.

4. The revision petition is restored to its original number and with the consent of the learned counsel representing the petitioners, the same is taken on Board for final disposal.

Main case

5. This is the defendants' revision petition to challenge the correctness of the order passed by the civil court on 09.09.2022 while dismissing his application under Order VII Rule 11 of the Code of Civil

Procedure, 1908 to reject the plaint at the threshold. The respondents (the plaintiffs) have filed a suit for the grant of decree of declaration and possession. In substance, he has challenged the correctness of the orders passed on 31.10.2016 and 23.12.2016 on the ground that he is not party to the aforesaid orders. The defendants have sought rejection of the plaint on the ground that the plaintiff has not affixed ad valorem court fee on the market value of the land and the jurisdiction of the civil court is barred. The court has dismissed the application on both the counts. It has been observed that the plaintiffs are not a party to the order dated 31.10.2016 and 23.12.2016. The jurisdiction of the civil court is plenary and at this stage, it shall not be appropriate to reject the plaint. Learned counsel representing the petitioner does not dispute that the plaintiff was not a party to the orders passed on 31.10.2016 and 23.12.2016. Hence, the trial court has correctly held that it is not appropriate to reject the plaint at the threshold.

6. As regards the objection with respect to deficiency in payment of the ad valorem court fee, the revision petition is not maintainable in view of **Ratnavermaraju vs. Smt. Vimla AIR 1961 SC 1299**.

7. Keeping in view the aforesaid facts, no ground to interfere is made out.

8. Hence, dismissed.

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9. All the pending miscellaneous applications, if any, are also disposed of.

13.03.2024

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)

JUDGE