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

CR-7122-2023 (O&M)

Date of Decision : 20.08.2024

Paramjeet Singh

... Petitioner(s)

Versus

Jarnail Singh and Others

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ajay Pal Singh Saini, Advocate for the petitioner.

Mr. Vikas Mehsempuri, Advocate

for caveator-respondent Nos.1 and 2.

ALKA SARIN, J. (Oral)

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 22.08.2023 (Annexure P-4) whereby the application filed by the defendant No.1-petitioner under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (CPC) for rejection of the plaint has been dismissed.

2. Brief facts relevant to the present *lis* are that the plaintiff-respondent Nos.1 and 2 herein filed a suit for declaration challenging the sale deed dated 07.09.2022 as being null and void as well as entries with regard to the name of Gian Chand and Phaldeep Sharma (defendant No.2) in the column of ownership. The suit was also for permanent injunction restraining the defendants from selling, mortgaging, transferring, creating any charge or

dispossessing plaintiff-respondent Nos.1 and 2 and interfering in their peaceful possession. The defendant No.1-petitioner filed an application under Order 7 Rule 11 CPC for rejection of the plaint. Reply was filed to the said application and vide the impugned order dated 22.08.2023 the application has been dismissed holding that all the averments made in the application would be a matter of evidence. Hence, the present revision petition.

3. Learned counsel for the defendant No.1-petitioner would contend that by filing the present suit the plaintiff-respondent Nos.1 and 2 infact want to challenge the orders passed by the revenue authorities. It is further the contention of the learned counsel that the plaintiff-respondent Nos.1 and 2 cannot be permitted to challenge the entries as the same are governed by the provisions of the Pepsu Tenancy and Agricultural Lands Act, 1955.

4. Learned counsel for the caveator plaintiff-respondent Nos.1 and 2 would contend that the only challenge in the suit is to the sale deed dated 07.09.2022 and no challenge has been laid to the orders passed by the revenue authorities. It is further the contention of the learned counsel that the arguments being raised by the learned counsel for the defendant No.1-petitioner are not made out from a perusal of the plaint.

5. I have heard the learned counsel for the parties.

6. It is trite that while deciding the application under Order 7 Rule 11 CPC for rejection of plaint only the contents of the plaint and the documents appended thereto are to be seen. The argument raised by the learned counsel for the defendant No.1-petitioner that the plaintiff-respondent Nos.1 and 2 by way of the present suit are seeking to challenge the orders of

the revenue authorities is not made out from a meaningful reading of the plaint. Any reference by the learned counsel for the defendant No.1-petitioner to the contents of the application cannot be looked into.

7. Hon'ble Supreme Court in the case of **Chhotanben & Anr. vs. Kiritbhai Jalkrushnabhai Thakkar & Ors. [2018(5) RCR (Civil) 163]** held as under :

“12. What is relevant for answering the matter in issue in the context of the application under Order VII Rule 11(d), is to examine the averments in the plaint. The plaint is required to be read as a whole. The defence available to the defendants or the plea taken by them in the written statement or any application filed by them, cannot be the basis to decide the application under Order VII Rule 11(d). Only the averments in the plaint are germane. It is common ground that the registered sale deed is dated 18th October, 1996. The limitation to challenge the registered sale deed ordinarily would start running from the date on which the sale deed was registered. However, the specific case of the appellants (plaintiffs) is that until 2013 they had no knowledge whatsoever regarding execution of such sale deed by their brothers - original defendant Nos.1 & 2, in favour of Jaikrishnabhai Prabhudas Thakkar or defendant Nos.3 to 6. They acquired that knowledge on 26.12.2012 and immediately took steps to obtain a certified copy of the registered sale deed and on receipt thereof they realised the fraud played on them by their brothers concerning the ancestral property and two days prior to the filing of the suit, had approached their brothers (original defendant Nos.1 & 2) calling upon them to stop interfering with their possession and to partition the property and provide

exclusive possession of half (1/2) portion of the land so designated towards their share. However, when they realized that the original defendant Nos.1 & 2 would not pay any heed to their request, they had no other option but to approach the court of law and filed the subject suit within two days therefrom. According to the appellants, the suit has been filed within time after acquiring the knowledge about the execution of the registered sale deed. In this context, the Trial Court opined that it was a triable issue and declined to accept the application filed by respondent No.1 (defendant No.5) for rejection of the plaint under Order VII Rule 11(d). That view commends to us.”

8. Further in the case of **Urvashiben & Anr. vs. Krishnakant Manuprasad Trivedi [2019(1) RCR (Civil) 366]** it has been held as under :

“15. By applying the aforesaid principles in the judgments relied on by Sri Dushyant Dave, learned senior counsel appearing for the respondent, we are of the considered view that merits and demerits of the matter cannot be gone into at this stage, while deciding an application filed under O.VII R.11 of the CPC. It is fairly well settled that at this stage only averments in the plaint are to be looked into and from a reading of the averments in the plaint in the case on hand, it cannot be said that suit is barred by limitation. The issue as to when the plaintiff had noticed refusal, is an issue which can be adjudicated after trial. Even assuming that there is inordinate delay and laches on the part of the plaintiff, same cannot be a ground for rejection of plaint under O.VII R.11(d) of CPC.”

9. None of the arguments which have been raised by the learned counsel for the defendant No.1-petitioner are even remotely made out from a

reading of the plaint.

10. In view of the above, I do not find any illegality or infirmity in the impugned order. The present revision petition being devoid of any merits is accordingly dismissed. Pending applications, if any, also stand disposed off.

20.08.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

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