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

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Date of decision:10.01.2025

Mukesh Devi

... Petitioner

Vs.

Lakhwinder & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. R.D. Sharma, Advocate for the petitioner.

...

SUKHVINDER KAUR, J.

1. The instant revision petition has been filed by petitioner/defendant No.1 against the order dated 03.12.2024 (Annexure P-5) passed by learned Civil Judge (Jr. Division), Kaithal in **CIS No.CS/1442/2024** titled as '**Lakhwinder & others Vs. Mukesh Devi & another**' vide which the application under Order 7 Rule 11 CPC read with Section 151 CPC dated 03.10.2023 filed by the petitioner/defendant for rejection of plaint was dismissed being not pressed.

2. Relevant facts leading to filing of the present revision petition are that the respondents/plaintiffs filed a suit for declaration with joint possession to the effect that the plaintiffs are coparceners in joint possession of coparcenary/ancestral agricultural/non-agricultural land measuring 16 kanals 0 marlas out of total land measuring 550 kanals 17 marlas comprised in khewat No.69 according to jamabandi for the year 2018-19 situated within the revenue estate of village Chaushala, Tehsil Kalayat, District

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Kaithal and for setting aside sale deed No.2057/1 dated 08.02.2017 and subsequently entered and sanctioned mutation No.3175 in favour of the respondents/plaintiffs.

3. Notice of the petition was served upon the defendants and they appeared before the trial Court on 03.10.2023 and moved application for rejection of plaint under Order 7 Rule 11 CPC. Reply to the said application was filed by the plaintiffs/respondents before the trial Court on 07.11.2023.

4. It has been alleged in the revision petition that the case was adjourned time and again for arguments on the application under Order 7 Rule 11 CPC but arguments were not advanced by counsel for plaintiff. The case was then adjourned to 03.12.2024 for arguments on the application under Order 7 Rule 11 CPC and on that day, counsel representing the petitioner/defendant and respondent No.4 sought adjournment as counsel was not well and was suffering from throat infection and was unable to speak. The trial Court by rejecting the request of the counsel for the defendant/petitioner, dismissed the said application being not pressed and fixed the matter for filing of written statements by the defendants on 20.01.2025. Hence, aggrieved against the said order, the petitioner/defendant has knocked the doors of this Court by way of filing of the present revision petition.

5. Learned counsel for the petitioner has contended that the impugned order is against law and facts proved on record and is the result of injudicious approach of mind to the facts of the case. He has further contended that learned trial Court has failed to appreciate the fact that for the

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decision of application under Order 7 Rule 11 CPC only, the contents of the plaint are to be seen and if from the perusal of contents of the plaint, the Courts come to the conclusion that the suit of the plaintiff is not properly valued for the purpose of the Court fee and jurisdiction, the plaint can be rejected or conditional order could be passed by the Court with the direction to the plaintiff to pay the ad valorem court fee, failing which the plaint ought to be rejected. He has urged that the application under Order 7 Rule 11 CPC was required to be decided on merits by the trial Court and has prayed that the trial Court be directed to decide the application dated 03.10.2023 by passing a speaking order after providing an opportunity of hearing to the defendant/petitioner.

6. I have heard learned counsel for the petitioner at length and have perused the pleadings on record.

7. Perusal of the impugned order reveals that the application under Order 7 Rule 11 CPC has been filed by the defendant/petitioner on 03.10.2023 and reply to said application was filed on 07.11.2023. From 28.11.2023 till 03.12.2024, arguments on that application were not advanced. Several opportunities including the last opportunity was granted for the same but despite that the arguments were not addressed on said application. Therefore, vide the impugned order, the trial Court dismissed the said application being not pressed.

8. In the facts and circumstances of the present case, it will be appropriate and in the interest of justice, if one effective opportunity is granted to the petitioner to advance arguments on the application under



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Order 7 Rule 11 CPC. The trial Court is directed to grant one effective opportunity to both the parties to advance arguments on the application filed by the petitioner under Order 7 Rule 11 CPC, subject to payment of costs of Rs.10,000/- to be paid by the petitioner to the respondents and after hearing both the parties to decide it as per law. Accordingly, the impugned order dated 03.12.2024 is set aside and the revision petition is allowed in the aforesaid terms.

9. Pending application(s), if any, shall also stand disposed of.

10.01.2025
harjeet

(SUKHVINDER KAUR)
JUDGE

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |