



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

201

CR-3930-2016

Date of decision: 17.09.2025

Nazam Singh

....Petitioner

Versus

Baldev Singh

....Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: Mr. Navjot Singh, Advocate for
Ms. Dhivya, Advocate for the petitioner.

Mr. Rahul Vijay Singh Chugh, Advocate with
Mr. Lokesh Singh, Advocate
for the respondent.

NIDHI GUPTA, J (ORAL)

1. Present revision petition has been filed by defendant against the order dated 09.02.2016 (Annexure P-1) passed by the learned Additional Civil Judge (Senior Division), Mansa, whereby application filed by the petitioner under Order 7 Rule 11 C.P.C. has been disposed of, taking into account the fact that petitioner had not yet filed written statement in the suit and that the objection under Order 7 Rule 11 CPC could be taken by the petitioner in his written statement.

2. Learned counsel for the petitioner assails the impugned order by submitting that the learned Trial Court has failed to appreciate that the plaintiff-respondent has cleverly drafted the suit Annexure P-2 in a manner that no prayer for possession has been made; whereas in actual, the plaintiff is also seeking possession of the suit property. It is submitted that although in the headnote of the



suit the plaintiff has claimed himself to be owner in possession of the suit land, however, in para 3 of the plaint it has been admitted by the plaintiff that pursuant to the Exchange Deed entered into between the parties in respect of 4 Kanals of land and house, plaintiff had given possession of suit land to the defendant. It is submitted that accordingly in fact, the plaintiff was seeking possession of the suit land; and was therefore liable to pay ad valorem court fee thereupon. Learned counsel for the petitioner also submits that the plaintiff in his suit has not sought cancellation of the Exchange Deed and as such he is liable to pay the Court fees. In support of his contention, learned counsel for the petitioner relies upon the judgment of this Court in *“Dharinder Singh and others Vs. Anoopjot Kaur and others” CR No 121 of 2025 decided on 26.03.2025, Law Finder Doc. I.D. 2710964.*

3. Per contra, learned counsel for the respondent controverts the submissions of the petitioner and submits that plaintiff is not seeking possession of the suit property. Learned counsel refers to the prayer clause in the civil suit Annexure P-2 to submit that prayer has been made only for a decree of declaration to the effect that plaintiff is owner in possession of the suit land as described therein and that the defendant has no concern or connection with the said land. A further declaration is sought that the Exchange Deed No.7595 dated 14.02.2011 in respect of 12 Kanals of land has been got executed by the defendant by cheating because exchange between the parties was only in respect of 4 Kanals of land and house of the defendant; and therefore the mutation dated 31.03.2011 on the basis of the said transfer deed is also against the law. It is accordingly prayed that the present petition be dismissed.

4. I have heard learned counsel for the parties and perused the case file.

5. I find no merit in the submissions made on behalf of petitioner/defendant. It is admitted fact on record that in adjudicating upon an



application under Order 7 Rule 11 CPC only the averments made in the plaint are to be taken into consideration by the trial Court. It has been repeatedly held by the Hon'ble Supreme Court in numerous judgments that not even the written statement filed in the suit can be considered at the time of adjudicating upon an application Order 7 Rule 11 CPC. In fact, Revision Petition is not maintainable against the impugned order, in view of the following judgments of this Court in **“Steel Authority of India Vs. M/s raja Steel Works and others” Law Finder Doc. I.D. 965439, date of decision on 11.08.2017** wherein it is held as under:-

“ C. Constitution of India, Article 227-Code of Civil Procedure 1908 (V of 1908), Order 7 Rule 11-Ad valorem fees-Revision by defendant-Maintainability of-No revision petition before High Court would be maintainable at the hands of the defendants, unless the question of court fee involves the jurisdiction of the Court-It is so said, because the issue of Court fee, including its alleged inadequacy, would be primarily between the plaintiffs and the State-Defendants cannot be permitted to stall the progress of the suit before the learned trial Court, because it is not going to suffer any kind of prejudice due to alleged inadequacy of court fee paid by the plaintiffs.

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*23. Further, during the course of hearing, when confronted with as to what kind of prejudice, whatsoever, has been caused to the defendants by passing the impugned orders, which may warrant interference at the hands of this Court, while exercising its supervisory jurisdiction under Article 227 of the Constitution of India, learned counsel for the petitioner(s) had no answer and rightly so, it being a matter of record. Thus, following the law laid down by Hon'ble the Supreme Court in **Vimla's case (supra)**, **Shamsher Singh's case (supra)** as well as by two Full Benches of this Court in **Krishan Kumar Grover's case and Arjan Motor's case (supra)**, it is held that no revision petition before this Court would be maintainable at the hands of the defendants, unless the*



question of court fee involves the jurisdiction of court. It is so said, because the issue of court fee, including its alleged inadequacy, would be primarily between the plaintiffs and the State.

24. Under such circumstances, defendants cannot be permitted to stall the progress of the suit before the learned trial court, because it is not going to suffer any kind of prejudice due to alleged inadequacy of court fee paid by the plaintiffs. Although it may not be an absolute rule in every given situation, yet this Court would normally insist asking the defendants to show his locus standi and right to file and maintain a revision petition before this Court, against an order passed by learned trial court, dismissing his application under Order 7 Rule 11 CPC. It is so said because in the cases where the plaintiffs are claiming tentatively calculated amount, court fee can always be fixed after the court quantifies the amount, asking the plaintiffs to pay adequate court fee.”

6. The observations made in the judgment titled as **“Surjit Kaur and another Vs. Sanamdeep Singh and others Law Finder Doc. I.D. 965380 decided on 31.07.2017** is reproduced as under:-

“B. Code of Civil Procedure 1908 (V of 1908), Order 7 Rule 11- Constitution of India, Article 227-Court Fees Act, 1870 (7 of 1870), Section 7-Sale deed-Suit for declaration-Ad-valorem court fees- payment of court fee is a question which is primarily between the plaintiff and the State-Revision petition at the hands of defendants is not maintainable against the order passed by the trial Court dismissing application under Order 7 rule 11 CPC.”

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5. Further revision petition at the hands of defendants is not maintainable against the order passed by the trial court dismissing application under Order 7 Rule 11 CPC. The payment of court fee is a question which is primarily between the plaintiff and the State. Hon'ble the Supreme Court in “Rathnavarmaraja Raja Vs. Smt.



Vimla” AIR 1961 SC 1299 has held that the defendant has no right to challenge the aforesaid order by filing appeal or revision.”

7. Further, reliance can be placed on the judgment passed in “Ishwar Dayal Sehgal and others Vs. Sunita Chattly” decided on 08.04.2021, Law Finder Doc. I.D.2016582. The relevant part is extracted as under: -

“A. Code of Civil Procedure 1908 (V of 1908), Order 7 Rule 11- Constitution of India, Article 227-Rejection of plaint-Objection to proper court fee-Dismissal of application-Appeal/Revision against- Maintainability of-No further appeal or revision at the hands of the defendants is maintainable.”

1. *“The defendants have filed this revision petition against an interlocutory order passed by the Civil Judge (Junior Division), Panchkula, dismissed an application for rejection of the plaint under Order 7 Rule 11 CPC.*
2. *The first objection of the defendants is that plaintiff has not affixed proper court fee. Learned Civil Judge, Junior Division, Panchkula, has found that the proper court fee has been affixed. Still further, no further appeal or revision at the hands of the defendants is maintainable in view of the judgment passed by the Hon’ble Supreme Court in ‘Sri Rathnavarmaraja Vs. Smt. Vimla’AIR 1961 Sc 1299.*

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4. *In the considered view of this Court, this matter can be examined by the Court while finally adjudicating the suit. Hence, no ground to exercise jurisdiction under Article 227 of the Constitution of India is made out.”*

8. Reference can also be made to the judgment passed in “Ravi Loyal and another Vs. The Presbyterian Church of Aotearoa.New Zealand and



others” CR-7906 of 2018 (C&M) decided on 01.04.2022, and the relevant extract reads thus:-

“Constitution of India, Article 227-Deficiency in ad-valorem court fee-Maintainability of revision-Revision petition on behalf of defendants complaining deficiency in payment of the Court fee is not maintainable.”

2. *In view of the judgment passed by the Hon’ble Supreme Court in **Sri Rathnavarmaraja Vs. Smit Vimla Air 1961 (Supreme Court) 1299**, the revision petition on behalf of defendants complaining deficiency in payment of the Court fee is not maintainable.”*

9. Thus, learned counsel for the petitioner cannot derive any benefit from the judgment passed in the matter of **“Dharinder Singh and others Vs. Anoopjot Kaur and others” Law Finder I.D. 2710964,** as the same is distinguishable on law and facts.

10. The present petition is accordingly **dismissed**.

17.09.2025
monika

(NIDHI GUPTA)
JUDGE

1. Whether speaking/ reasoned : Yes /No
2. Whether reportable : Yes /No