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

(126)

CR-716-2025

Date of decision:- 25.02.2025

Ranjeet Singh and another**... Petitioners****Versus****Manraj Singh and another****... Respondents****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Saket Bhandari, Advocate
for the petitioners.

SUVIR SEHGAL, J. (ORAL)

1. Instant revision petition has been filed assailing order dated 07.12.2024, Annexure P-4, passed by the learned Civil Judge (Junior Division), Karnal, whereby an application filed by the petitioners/defendants under Order VII Rule 11, CPC for rejection of the plaint has been dismissed.
2. Counsel for the petitioners submits that the respondents/plaintiffs filed a suit, Annexure P-1, claiming share in the joint family property and upon being served, the defendants filed an application under Order VII Rule 11, CPC, Annexure P-2. Counsel states that a reading of the plaint shows that the property is self-acquired in the hands of defendant No.1 and that the suit is barred under Section 41(h) of the Specific Relief Act, 1963 as a simpliciter suit for declaration is not maintainable. He submits that the plaintiffs seek to enforce their right on the basis of agreements executed in 2012 and 2015 and



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the suit is barred by limitation. Yet another plea taken by him is that the documents, whereby right has been extinguished, are not registered, therefore, the plaint is liable to be rejected. He asserts that the Trial Court has erred in dismissing the application as the suit filed by the plaintiffs is vexatious and the plaint deserves to be rejected at the threshold. He has placed reliance upon *T. Arivandandam Versus T.V.Satyapal, (1977) 4 SCC 467; M/s. Pearlite Liners Pvt. Ltd. Versus Manorama Sirsi, (2004) 3 SCC 172; Mehar Chand Das Versus Lal Babu Siddique and others, (2007) 14 SCC 253; Dahiben Versus Arvindbhai Kalyanji Bhanusali (Gajra) (D) Thr Lrs & Ors., (2020) 7 SCC 366; Vasant Ramchandara Deshpande Versus State of Maharashtra, (1997) 11 SCC 305* and *Taro Devi Versus Raunak Singh and others, 2013(5) R.C.R. (Civil) 59.*

3. I have heard counsel for the petitioners and considered his submissions, besides examining the paper-book with his able assistance.

4. It is well settled that while considering an application under Order VII Rule 11, CPC, Court has to examine the averments contained in the plaint. Court is not to look into the strength or weakness of the case of the plaintiff or the defence raised by the defendant. The question before the Court is whether a plaint discloses a cause of action or whether the suit is barred by law or whether despite being granted an opportunity, the plaintiff has not affixed the requisite Court fee etc. In *K. Akbar Ali Versus Umar Khan and others, (2021) 14 SCC 51*, Supreme Court has held that the provisions of Order VII Rule 11 are not exhaustive and the Court has inherent power to see that frivolous or vexatious litigations are not allowed to consume the time of the



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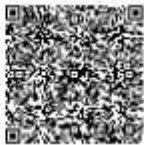
Court. Holding that Order VII Rule 11, CPC is mandatory in nature, Supreme Court in *Dahiben's case (supra)* held that it casts a duty of the Court to determine whether the plaint discloses a cause of action by scrutinizing the averments in the plaint, read in conjunction with the documents relied upon or whether the suit is barred by law. The documents filed along with the plaint are required to be taken into consideration for adjudicating an application under Order VII Rule 11, CPC. The plea taken by the defendants in the written statement and in the application for rejecting of plaint is irrelevant and is not to be adverted to or taken into consideration. The test for exercising the power under Order VII Rule 11, CPC is that if the averments in the plaint are taken in their entity in conjunction with the documents would result in a decree being passed and it is not permissible to cull out a sentence or a passage or to read it in isolation.

5. The plaint in the present case has to be read in the light of the guidelines laid down by the Supreme Court. Suit, Annexure P-1, has been filed by the respondents, who are the minor son and widow of Harpreet Singh, who expired on 14.11.2011. This suit has been instituted against Ranjeet Singh and Amarjeet Kaur, present petitioners, who are the parents of Harpreet Singh. It has been pleaded that on the basis of a family settlement, a decree was passed in the year 1970 and Balkar Singh received agricultural land from his father, Surain Singh. Balkar Singh executed a release deed in favour of petitioner No.1/defendant No.1 for a huge chunk of agricultural land situated in Assandh, District Karnal. Some land had been purchased by the defendants out of income derived from the joint family property and some land was received

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under WILL executed by Surain Singh. Petitioners-defendants are also alleged to be owners of a shop. It has been claimed that as the property is ancestral and joint family property, Harpreet Singh, deceased, was a co-sharer and entitled to 1/3rd share and upon his death, the plaintiffs are entitled to the said share. It has been averred that in order to deprive the plaintiffs of the property, the petitioners/defendants connived and forcibly married his widow with their other son, Gurpreet Singh, on 10.02.2012. Still further, it has been averred that the marriage ran into rough weather and a family settlement was arrived at between the parties on 12.06.2012 before a Panchayat, whereby the petitioners/defendants agreed that the respondents/plaintiffs had 1/3rd share in the family property and consented to handover 6½ acres of agricultural land to plaintiff No.1 by way of WILL. When the petitioners/defendants did not honor the commitment, an addendum to settlement was entered into in 2015, whereunder the petitioners/defendants agreed to deposit the unpaid rent in the joint account of the plaintiffs. Even the second agreement was not adhered to by the defendants. In the meanwhile, Gurpreet Singh solemnized another marriage in 2013 and plaintiff No.2 registered an FIR against him under Sections 494, 406, 498-A, 323, 506, 120-B, IPC. After serving a legal notice, plaintiffs instituted the suit for declaration and for permanent injunction.

6. A meaningful reading of the plaint shows that the plaintiffs have claimed a share in the ancestral property left behind by Harpreet Singh, their predecessor. They have placed reliance upon agreements entered into between the parties, which according to them, have not been honored by the defendants. A cumulative reading of the plaint shows that the plaintiffs have a cause of



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action to maintain the suit and at the threshold, the suit cannot be held to be vexatious or meritless. There can be no dispute about the maintainability of the suit. In so far as the agreements are concerned, the onus to prove the agreements and their non-adherence is on the plaintiffs, which they can prove on the basis of the evidence adduced by them. It has been specifically pleaded by the plaintiffs that the cause of action arose to them when the defendants did not pay the amount due as per the family settlement and a petition for quashing of the FIR filed by the petitioners was withdrawn from the High Court vide order dated 21.08.2018.

7. From the pleadings, it cannot be said that the plaintiffs do not have any cause of action or that the suit is barred by limitation. Moreover, mere non-registration of the agreement would not make the plaint liable to be rejected as the effect of non-registration can be looked into by the Court at the time of the granting the relief. Looked at from any angle, it cannot be said that the plaint deserves to be thrown out at the threshold. There is no perversity or irregularity in the order passed by the Trial Court. The judgments relied upon by the counsel for the petitioners are not applicable to the facts of the present case.

8. Petition being devoid of merit, is dismissed, though with no order as to costs.

(SUVIR SEHGAL)
JUDGE

25.02.2025
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No