



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

CR-1315-2025

Date of decision : 08.05.2025

Meena Garg and another

... Petitioners

Versus

Navita and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Surender Saini, Advocate
for the petitioners.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the order dated 20.12.2024 passed by the Civil Judge (Jr.Div.), Kharkhoda, vide which the application under Order 7 Rule 11 CPC filed by the petitioners-defendants no.3 to 6 has been dismissed.

2. Respondents no.1 to 4 had filed a suit in which a prayer was made for declaration declaring the sale deed dated 01.08.2017 and the subsequent mutation and the revenue records existing in the name of defendant no.1 to the extent of 36/2378 share and also declaring sale deed dated 17.03.2022 and subsequent mutation no.13573 to be illegal having been entered on the basis of fraud and not binding on the rights of the plaintiffs and had further sought declaration that the plaintiffs were owners in joint possession to the extent of 36/2378 share in the abovesaid land.



3. Learned counsel for the petitioners has submitted that in the present case the plaintiffs were required to pay ad-valorem court fee and since the same has not been done, thus, the plaint deserves to be rejected. It is submitted that the suit is barred by limitation and thus, on the said ground also, the same deserves to be rejected. It is argued that the application filed by the petitioners under Order 7 Rule 11 CPC is meritorious and the same has been illegally rejected vide the impugned order dated 20.12.2024 and thus, the impugned order dated 20.12.2024 deserves to be set aside and the application filed by the petitioners under Order 7 Rule 11 CPC deserves to be allowed.

4. A perusal of the impugned order dated 20.12.2024 would show that the trial Court had observed that the plaintiffs were not party to the sale deed and were thus non-executant of the sale deed and as per law laid down by the Hon'ble Supreme Court in the case of ***Suhrid Singh @ Sardool Singh vs. Randhir Singh and Others*** reported as ***AIR 2010 SC 2807***, in a case where a person is challenging the sale deed and is not an executant of the sale deed and is not seeking possession, then he is not required to pay ad-valorem court fee. It was further observed in the impugned order that even the declaration sought by the plaintiffs was to the effect that the plaintiffs were owners in joint possession and thus, no prayer for possession was sought. A perusal of the prayer clause of the suit would show that possession of the suit property was not sought. The prayer clause is reproduced hereinbelow:-

“A). A Decree for Declaration declaring the registered sale deed No.1048 dated 1.8.2017, subsequent mutation No. 11176



and subsequent revenue records existing in the name of defendant No.1 to the extent of 36/2378 share (1/2 share of 36/1189 share) & sale deed No. 4325, Book No. 1 dated 17.03.2022 and subsequent mutation bearing No. 13573 being based on fraud, is wrong, illegal and not binding on the rights of the plaintiffs and the plaintiffs are owners in joint possession to the extent of 36/2378 share in the above said land as detailed in para No.1 of the plaint, being only legal heirs of Daljeet Singh, in the interest of justice.

B). It is further prayed that the defendants may kindly be restrained from selling, alienating, transferring the suit property i.e. 36/2378 share in the suit property as detailed in para No. 4 of the plaint to any third party, till the decision of the suit, in the interest of justice.

Cost of the suit along with any other relief which this Hon'ble Court may deem fit and proper be also passed in favour of the plaintiffs.”

The said observation of the trial Court is in accordance with law and deserves to be upheld.

5. It would be relevant to note that a Co-ordinate Bench of this Court in case titled as “**Arun Kumar Goyal Vs. Payal Aggarwal, reported as 2013(4) R.C.R. (Civil) 93**”, had observed that no revision would lie at the instance of the defendant against the decision on the question of inadequacy of court fee as the question of non-payment of Court fee is a dispute between the litigant and the Registry. Reliance in the said judgment was placed upon various judgments. Paras No.9 and 10 of the said judgment are reproduced as under: -

“9. Admittedly, the dispute is of the court fee. Learned counsel for the respondent before raising any argument on the merits



*of the case has raised a preliminary objection that no revision is maintainable in case of payment of court fee. It has been held in various judgments that the question of non-payment of court fee is a dispute between the litigant and Registry whether it arises at the stage of presentation of plaint or the appeal and the respondent is normally not interested in such a dispute. As per ratio of judgment in case titled **Shamsher Singh v. Rajinder Prashad, 1973 PLJ 686**, revision or appeal can be filed if there is a dispute of jurisdiction. In case the question of jurisdiction is not involved then revision cannot be filed. This issue was interpreted by the Kerala High Court in **Vasu v. Chakki Mani, AIR 1962 Kerala 84** wherein it was held that no revision will lie against the decision on the question of inadequacy of court fee at the instance of the defendant. The judgment of Apex Court in **Sri Rathnavarmarajas case (supra)** was also followed by the Full Bench of this Court in **M/s. Arjan Motors v. Girdhara Singh and others, 1978 PLJ 36**. As per Full Bench judgment of this Court it was held that question of court fee cannot be agitated by the litigants in a petition under section 115 of the Civil Procedure Code.*

*10. The present case is squarely covered by a judgment of Full Bench of this Court rendered in **M/s. Arjan Motors case (supra)**. Accordingly, in view of the facts as mentioned above and the settled position of law in case of payment of court fee, no revision is maintainable.*

Dismissed.

Revision Dismissed”

6. On the aspect of limitation, it was observed by the trial Court that a perusal of the plaint would show that the cause of action to file the present suit had arisen on 04.07.2021 and it has been fairly stated by learned counsel for the petitioners that the suit was filed on 07.07.2021. It was



further observed that it is a matter of settled law that the question of limitation is a mixed question of law and fact which could be decided on appreciation of evidence. It would be relevant to note that although the first sale deed challenged in the suit is of 01.08.2017 but it is not in dispute that the plaintiffs were not party to the said sale deed and thus, the question which would arise for consideration is to the effect that as to when the plaintiffs got knowledge of the registered sale deed. Nothing has been shown to this Court to show that the plaintiffs had knowledge of the sale deed dated 01.08.2017 prior to 04.07.2021. At any rate, the said aspect can be best considered during the course of trial, as while deciding the application under Order 7 Rule 11 CPC only the averments made in the plaint and the documents annexed with the plaint are required to be considered.

7. Keeping in view the above said facts and circumstances, the impugned order dated 20.12.2024 is upheld and the present revision petition being meritless deserves to be rejected and is accordingly dismissed.

(VIKAS BAHL)
JUDGE

May 08, 2025.

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No