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

CR-2258-2025

Date of decision:-09.04.2025

Satnam Kaur

...Petitioner

Versus

Charanjit Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present : Ms. Simrat Kaur, Advocate for
Mr. Imrose K. Khaira, Advocate
for the petitioner.

SUVIR SEHGAL, J.(ORAL)

1. Petitioner/defendant No.1 has approached this Court assailing order dated 17.5.2024, Annexure P1, whereby an application filed under Order 7 Rule 11 CPC for rejection of the plaint has been dismissed.

2. Counsel for the petitioner submits that petitioner is married to respondent No.1/plaintiff, who has retired from the Army in 1993, and respondents No.2 and 3 were born from the wedlock. She submits that the relationship between the parties is sour and respondent No.1 filed two divorce petitions, which were dismissed and he has been convicted in complaints filed by the petitioner. Counsel asserts that an amount of Rs.7,000/- was awarded as monthly maintenance to the



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petitioner in a petition under Section 125 Cr.P.C. A suit filed by her and her children under the Hindu Adoption and Maintenance Act, 1956 has been decreed by the Trial Court by judgment dated 17.03.2005, Annexure P5, whereby she has been granted maintenance, which has been held to be a charge on the residential house owned by respondent No.1. Counsel asserts that the plaintiff has filed a suit, Annexure P2, for mandatory injunction directing the petitioner and her children to vacate the residential house as also for permanent injunction restraining them from inducting any third party in the house in dispute. Counsel asserts that as the suit is not maintainable, an application, Annexure P3, has been filed by the petitioner for rejection of the plaint, which has been erroneously declined vide order impugned herein.

3. I have heard counsel for the petitioner and considered her submissions.

4. There is no dispute about the relationship between the parties. A perusal of the suit, Annexure P1, shows that parties have an estranged relationship. In the suit, plaintiff has averred that false complaints have been submitted against him before the army authorities and punishment was imposed upon him by his employers. It has been pleaded that during his service tenure, respondent No.1 purchased land in dispute and constructed a residential house from his salary and savings. However, on retirement when he shifted to the residential house, petitioner started misbehaving with him and gave various criminal complaints against him and he was even convicted. Plaintiff has stated that he was forced to shift from the residential house, which



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continues to be in occupation of the petitioner. He has asserted that as the petitioner was a licensee in the house, which has been revoked, plaintiff is entitled to a decree for mandatory injunction. A thorough reading of the plaint shows that the plaintiff has a cause of action to file the suit, which cannot be defeated at the outset. Ground taken by the petitioner for rejection of the suit is that a charge has been created on the house by virtue of judgment dated 17.03.2005, Annexure P5. Merely on this account, it cannot be said that the plaintiff does not have a cause of action or that the suit is barred. The objection, if any, regarding the maintainability of the suit as raised by the petitioner in her defence, shall be considered by the Trial Court on the basis of the evidence adduced by the parties. The suit cannot be rejected at the threshold on the ground set up by the petitioner. There is no irregularity or illegality in the order passed by the Trial Court.

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

(SUVIR SEHGAL)
JUDGE

09.04.2025

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Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No