

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****132****CR-3219-2025 (O&M)****Date of decision: 19.11.2025****Parminder Singh and others****...Petitioner(s)****Vs.****Narendra Kaur alias Jaswinder Kaur and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Naveen Sharma, Advocate for the petitioners.

*********NIDHI GUPTA, J.**

Present Civil Revision Petition under Article 227 of Constitution of India has been filed by the defendants against the order dated 17.04.2025; whereby application filed by the petitioners under Order 7 Rule 11 CPC for rejection of the plaint for insufficient Court fee, has been dismissed.

2. It is *inter alia* submitted by learned counsel for the petitioners that the plaintiffs/respondents No.1 and 2 had filed Civil Suit No. 299 dated 08.05.2023 titled as **Narinder Kaur @ Jaswinder Kaur and another vs. Parminder Singh and others** (Annexure P-1) seeking declaration that plaintiffs are owners of the suit land with consequential relief of permanent injunction and alternative relief of joint possession as co-owner/co-sharer. It is submitted that accordingly, petitioners had filed instant application dated 23.04.2024 (Annexure P-2) under Order 7 Rule 11 CPC seeking rejection of the plaint for being under valued. It is



submitted that respondents/plaintiffs had sought relief of joint possession as co-owner/co-sharer in the suit property to the extent of their share. However, plaintiffs are not in possession of a single inch of the suit property. Hence, they are seeking relief of joint possession. As such, they were required to affix ad valorem Court fee, which was not done. As such, plaint was liable to be rejected. Plaintiffs were required to affix ad valorem Court fee as it is settled proposition of law that any property which is not in possession of the plaintiffs, ad valorem Court fee has to be affixed. Rejection of the plaint was also sought on the ground that plaintiff had no cause of action.

3. However, the learned Trial Court, without application of judicious mind, has dismissed the said application of the petitioners. In support, learned counsel for the petitioners relies upon judgment of Hon'ble Supreme Court in **Suhrid Singh @ Sardool Singh v. Randhir Singh (SC): Law Finder Doc Id # 209047**. It is contended that therefore, the impugned order is against the settled principles of law. It is accordingly prayed that the present Revision Petition be allowed; and the impugned order dated 17.04.2025 be set aside.

4. No other argument is raised on behalf of the petitioners. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced by the learned counsel for the petitioners.

5. The observations of the learned Trial Court as contained in para 5 of the impugned order dated 17.04.2025 are as under:-



*"5. Vide the instant application, the applicants/defendants no. 1 to 3 have sought the relief that the plaint be liable to be rejected on the ground for non-affixing of ad valorem court fee as per the value of the suit property as the joint possession of the same has been sought by the plaintiffs. The perusal of plaint shows that the instant suit has been filed by the plaintiffs for declaration seeking that the plaintiffs are owner of the suit property owned by Gurmail Singh @ Shingara Singh @ Gela with consequential relief of permanent injunction and for Joint Possession as a co-owner/co-sharer in the suit property by setting aside the alleged Will dated 12.11.2010 in favour of defendants no. 1 and 2. Meaning thereby, the plaintiffs are claiming themselves to be the owners of the suit property on the basis of natural succession and also sought joint possession of the same by affixing mere court fee on the plaint. The Hon'ble Punjab and Haryana High Court in case titles **Gajja Singh and another Vs. Gurdial Singh and others, Indian Law Reports, Vol. XIII, 985 (Full Bench) and Parjeet Singh Vs. Rajinder Pal Singh and others, 2024 (1) RCR (Civil) 14**, has held that:*

"Suit for Declaration. Plaintiff was found liable to affix ad valorem Court fee on the plaint as per the market value. It being so, it would be very difficult for the plaintiff to come to know as to how much Court fee he is required to affixed on the amended plaint. In case of default the trial Court may pass appropriate order and if the application is accepted and plaint is rejected. Impugned order set aside".

*Further, the Hon'ble Punjab and Haryana High Court in case title **Rajiv Kumar and others Vs. Rakesh Kumar and other, 2015 (4) Law Herald Page 2970 (also reported as 2015 (8) R.C.R. (civil) page 588)** has held that:*



"Fixed Court fee is payable on a suit filed by a person seeking partition and possession in joint property even if he is not in possession of any part of it".

*Similarly, the Hon'ble Apex Court of India in case title **Neelavathi and others Vs. N. Natarajan and others, 1980 AIR (SC) 691**, has held that:*

"The averments in plaint by co-owner plaintiff that he could not remain in joint possession as he was not given income from joint family such averments would not amount to plaintiff's exclusion from possession. Accordingly, in computing the court fee, all material allegation in plaint should be construed and taken as a whole".

Therefore, as discussed above, it is settled law that the plaintiffs are liable to pay the fixed court fee and not ad valorem court on the value of suit property qua which relief claimed, when they are seeking declaration and joint possession of suit property.

6. I am in complete agreement with the above said reasoning of the learned Trial Court.

7. It is established position in law that in an application filed under Order VII Rule 11 CPC only averments made in the plaint are to be seen. Even the submissions made in the written statement cannot be considered at the time of dealing with the application under Order VII Rule 11 CPC. The submissions made on behalf of the petitioners are mixed questions of fact and law, the correctness of which can be established only upon leading of evidence. The Hon'ble Supreme Court in numerous judgments including **Eldeco Housing and Industries Ltd. vs.**

Ashok Vidyarthi and others, Law Finder Doc ID # 2406865, has



repeatedly held that no evidence, or merits of the controversy, can be examined at the stage of deciding an application under Order VII Rule 11 CPC; and that only the averments made in the plaint would be relevant for invoking Order VII Rule CPC. Again, in ***Kamala and others vs. K.T. Eshwara Sa & Others, (2008) 12 SCC 661***, the Hon'ble Supreme Court opined that for invoking Order VII Rule 11 CPC, only the averments in the plaint would be relevant. For this purpose, there cannot be any addition or subtraction. No amount of evidence can be looked into. Reference may also be made to three-Judge Bench judgment of Hon'ble Supreme Court in ***"Srihari Hanumandas Totala Vs. Hemant Vithal Kamat & Others"*** ***Law Finder Doc ID # 1865777***, wherein it has been held that *"10 (iii)...In order to reject a plaint for the suit being barred by any law under Order 7 Rule 11(d), the court needs to be guided by the averments in the plaint and not the defence taken...."*

8. In view of the above, I find no ground is made out to interfere in the impugned order dated 17.04.2025. The present Civil Revision Petition is accordingly **dismissed**.

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

19.11.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No