

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

2025.PHHC:031394



**CR-2530-2021 (O&M)
DATE OF DECISION : 05.03.2025**

PYARE LAL AND ANOTHER ... PETITIONERS

V/S

SUNITA RANI AND OTHERS ... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Dheeraj Kumar Narula, Advocate for the petitioners.

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VIKRAM AGGARWAL, J. (ORAL)

The present revision petition is directed against the order dated 19.08.2021 (Annexure P-5) passed by the Court of learned Civil Judge (Jr. Divn.), Dabwali vide which the application moved by the petitioners under Order 7 Rule 11 read with Section 151 of Code of Civil Procedure, 1908 (for short 'CPC') was dismissed.

2. The facts, as emanating from the revision petition, are that a suit for declaration to the effect that the respondents No.1 to 3/plaintiffs were owner in joint possession of the suit property was filed by the respondent Nos. 1 to 3/plaintiffs. Decree dated 17.03.1997 was also challenged and further, consequential relief for permanent injunction was sought.

3. During the pendency of the suit, an application under Order 7 Rule 11 CPC was filed by the petitioner-defendant primarily on the ground that, for, the respondents-plaintiffs were not in possession of the suit land,

the suit was undervalued for the purposes of Court fee and jurisdiction. The application (Annexure P-3) was opposed by way of reply (Annexure P-4). By way of the impugned order, the application for rejection of plaint was dismissed leading to the filing of the present revision petition.

4. No one has appeared on behalf of respondent Nos. 1 to 3/plaintiffs despite service.

5. I have heard learned counsel for the petitioners.

6. Learned counsel submits that the learned trial Court erred in dismissing the application for rejection of the plaint, for, the respondents No.1 to 3/plaintiffs were not in possession of the suit property and accordingly, the suit was undervalued for the purposes of Court fee and jurisdiction. He further submits that no issue as regards possession and Court fee and jurisdiction has been framed by the learned trial Court and now the case is at the stage of evidence of the plaintiffs. He submits that the petitioners/defendants may be permitted to move an application for framing of additional issues.

7. I have considered the submissions made by learned counsel for the petitioners.

8. So far as the application for rejection of plaint is concerned, it is settled law that for the purposes of deciding the same, only the contents of the plaint are to be considered. In the plaint, respondents No.1 to 3/plaintiffs prayed for a decree of declaration with joint possession. Nowhere in the plaint has it been averred that the respondents No. 1 to 3 are not in possession of the suit property. Further, no prayer has been made for the passing of a decree of possession in their favour. Under the circumstances,

the issue of possession, if so raised, would be decided at the stage of trial and the plaintiffs cannot be non-suited at the threshold. I, do not, therefore, find any illegality in the order passed by the learned trial Court warranting interference. As regards the prayer made with regard framing of additional issues, it would always be open to the petitioners to move the requisite application before the learned trial Court, which, if so moved, would be decided in accordance with law.

9. In view of the above, I do not find any merit in the present revision petition and the same is accordingly dismissed.

05.03.2025

Janki

**(VIKRAM AGGARWAL)
JUDGE**

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