



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR-8317-2019 (O&M)

Date of Reserve: August 22, 2025

Date of Pronouncement:-11.09.2025

Sunita Walia

.....Petitioner

Vs.

Ramphal Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Bhavyadeep Walia, Advocate,
for the petitioner.

Mr. Sachin Sharma, Advocate,
for the respondent.

SUDEEPTI SHARMA J.

1. Present revision petition is preferred against order dated 21.08.2019 passed by learned Civil Judge (Jr. Divn.), Chandigarh in Civil Suit No. 1269-2017 titled as *Ramphal Singh vs. Sunita Walia*, whereby the application filed by the petitioner under Order 7 Rule 11 CPC seeking rejection of the plaint on the ground that civil suit was barred under Order 23 Rule 1 CPC as well as hopelessly time barred since was filed after 32 years, was dismissed.

2. Learned counsel for the petitioner contends that the application filed by the petitioner under Order 7 Rule 11 CPC was wrongly rejected by learned Civil Judge (Jr. Divn.), Chandigarh. Learned counsel for the petitioner further contends that the suit was barred by limitation and also under Order 2 Rule 2 CPC. He, therefore, prays that the present petition be allowed.

3. In support of his contention, he has relied upon judgment of Hon'ble the Supreme Court of India in a case of *C.S. Ramaswamy vs. V.K. Senthil and ors*, **2022 (4) RCR (Civil) 426**.



4. Per contra, learned counsel for the respondent contends that the application filed by the petitioner under Order 7 Rule 11 CPC was rightly dismissed by learned Civil Judge (Jr. Divn.), Chandigarh by passing a well reasoned order. He, therefore, prays that the present petition be dismissed.

5. In support of his contention, he has relied upon judgment of Hon'ble the Supreme Court of India in cases of ***Vinod Infra Developers Ltd vs. Mahaveer Lunia and others, 2025 INSC 772 and P .Kumarakurubaran vs. P. Narayanan and others, 2025 (2) RCR (Civil) 758.***

6. I have heard learned counsel for the parties and perused the whole file of this case with their able assistance.

7. A bare perusal of the impugned order shows that the petitioner filed application under Order 7 Rule 11 CPC for rejection of the plaint on the ground that prior to filing of the present suit, the respondent had earlier filed civil suit No. 1613 of 2016 titled as "*Ramphal Singh vs. Sunita Walia and others*", which was dismissed as withdrawn on 16.05.2017 without obtaining any liberty to file subsequent suit on the same cause of action and the suit is barred under Order 23 Rule 1 (4) CPC. Further contention of the petitioner was that the present suit and the earlier suit are with respect to same property and same claim. Further that the respondent did not affix *ad-valorem* Court fee while filing the present suit.

8. In response to the same, the respondent submitted that earlier suit was not decided on merits and was dismissed as withdrawn on an application moved by the earlier counsel of the respondent wherein prayer for liberty to file fresh one was made, which was not specifically denied by the learned Court. Further that the respondent never relinquished his claim over the suit property and in the present suit also, he is seeking declaration of his ownership over the suit property on the basis of facts which were already mentioned in the previous suit and no new



ground is taken in the present suit. Therefore, the suit is not barred and is within limitation. Further that the appropriate Court fee is affixed by the respondent.

9. It would be apposite to reproduce the relevant portion of the impugned order dated 21.08.2019, which reads as under:-

“6. As per Order 7 Rule 11 CPC, the plaint shall be rejected in the following cases:-

- (a) Where it does not disclose a cause of action;*
- (b) Where the relief claimed is under-valued, and the plaintiff, on being required by the Court to so correct the valuation within a time to be fixed by the Court, fails to do so;*
- (c) Where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;*
- (d) Where the suit appears from the statement in the plaint to be barred by the law;*
- (e) Where it is not filed in duplicate;*
- (f) Where the plaintiff fails to comply with the provisions of rule 9”*

7. The applicant/defendant has filed the present application under Order 7 Rule 11 CPC for rejection of the plaint filed by plaintiff Ramphal Singh. First ground taken by the defendant is that the plaintiff has earlier filed Civil Suit No.1613 of 2016 titled as, "Ramphal Singh Vs. Sunita Walia" which was dismissed as withdrawn by him without seeking the permission to file the fresh suit on same cause of action. It is plea of the applicant/defendant that now the plaintiff has sought the identical relief on identical cause of action regarding the same suit property, therefore, his suit is barred by law in terms of Order 23 Rule 1(4) CPC.

8 As far as that ground is concerned, as per the version of the applicant/defendant, the previous suit was for mandatory injunction directing the defendant to handover the vacant possession of the suit property and for permanent injunction restraining the defendant from alienating the suit property and for mandatory injunction directing the defendant No.2 not to



allow the defendant No.1 from transferring the suit property in the name of any person. The present suit has been filed for declaration to the effect that the plaintiff is exclusive owner in possession of the suit property and for mandatory injunction directing the defendant Sunita Walia to hand over the vacant possession of the suit property to the plaintiff and for permanent injunction restraining the defendant from alienating the suit property to any third person. Thus, it is clear that in the previous suit there was no prayer for declaration and there were two defendants in the earlier suit however, in the present suit there is only one defendant. The question that whether the present suit has been filed in contravention of Order 23 Rule 1(4) CPC can be decided by giving the opportunity to the parties to lead their evidence. In case the suit is rejected under Order 7 Rule 11 CPC at this stage, the plaintiff would not even be able to lead the evidence to prove that his suit is not barred under Order 7 Rule 11 CPC. There is additional relief of declaration in the present case and name of one defendant has been omitted in the present case, therefore, in such circumstances it would be appropriate if the question that whether the present suit is barred by law particularly under Order 23 Rule 1(4) is decided after giving opportunities to the parties to lead their evidence. Hence, in my considered opinion, the present plaint is not liable to be rejected at this stage on this ground.

9 Next ground taken for rejection of the plaint by the applicant/defendant is that the plaintiff has sought the decree of declaration on the basis of allotment letter but he cannot seek this declaration in the present case because he has relinquished this relief in the earlier suit and the present relief is also barred by law of limitation. As far as the question of limitation in the facts of present case is concerned, it is a mixed question of law and fact. Therefore, the evidence is necessary to decide that whether the present suit is barred by limitation or not. Therefore, the present plaint is not liable to be rejected at this stage on the ground that it is barred by law of limitation.

10. As far as the ground that plaint is liable to be rejected under Order 2 Rule 2 CPC is concerned, this question also requires to be adjudicated after appreciation of evidence after giving the opportunities to the parties to



adduce their evidence. Therefore, the plaint is not liable to be rejected at this stage on this ground also.

11. Next ground taken by the applicant is that the present suit has been filed on false ground and the plaintiff has not approached the Court with clean hands. As far as this ground is concerned, concealment of true and material facts and to file a suit on false ground is not a ground mentioned in Order 7 Rule 11 CPC for rejection of the plaint. Hence, plaint is also not liable to be rejected at this stage on this ground also.

12 Another ground is that the plaintiff has not affixed the ad-valorem Court fee on the plaint and his plaint is liable to be rejected on this ground. The plaintiff has not sought possession but he has sought mandatory injunction in the present case. If during the trial plaintiff is found out of possession and Court grants the relief of possession to him or arrives on conclusion that he has indirectly claimed the possession, the Court can order the plaintiff to affix ad-valorem Court fee at any stage. Therefore, the question of affixation of ad-valorem fee is kept open and it will be decided at the time of final adjudication of the case. The plaint is not liable to be rejected on this ground at this stage.

13. Keeping in view the above detailed discussion, it is concluded that the present application under Order 7 Rule 11 CPC is devoid of merits and it is hereby dismissed.”

10. A perusal of the above impugned order shows that learned Civil Judge (Jr. Divn.), Chandigarh has categorically dealt with all the contentions raised by learned counsel for the parties by passing a well reasoned order, which requires no interference by this Court.

11. Now coming to the judgment referred to by learned counsel for the parties.

12. Learned counsel for the petitioner has relied upon **C.S. Ramaswamy's case (supra)**, wherein Hon'ble the Supreme Court has held that the plaintiffs cannot be permitted to bring suits within period of limitation by clever drafting which otherwise is barred by limitation.



13. The judgment relied upon by learned counsel for the petitioner is of no help to him and does not support his case, since the facts of the present case are distinguishable.

14. Learned counsel for the respondent has also relied upon ***Vinod Infra Developers Ltd's case (supra)***, wherein Hon'ble the Supreme Court has held that rejection of plaint under Order 7 Rule 11 CPC is permissible only when the plaint discloses no cause of action or is barred by any law, or suffer from valuation or Court fee deficiencies that are not rectified despite opportunities granted by the Court.

15. Learned counsel for the respondent has relied upon ***P.Kumarakurubaran's case (supra)*** wherein Hon'ble the Supreme Court has held that rejection of plaint under Order 7 Rule 11 CPC on limitation grounds is impermissible when the issue involves a mixed question of law and fact, especially regarding the date of knowledge of the impugned transaction.

16. In view of the above referred to judgments, application filed by the petitioner under Order 7 Rule 11 CPC seeking rejection of the plaint has rightly been dismissed by learned Civil Judge (Jr. Divn.), Chandigarh. Resultantly, this Court finds no infirmity or illegality in the impugned order dated 21.08.2019.

17. Accordingly, the revision petition is dismissed being devoid of any merit.

18. Pending application (s), if any also stands disposed of.

11.09.2025

Gaurav Arora

(SUDEEPTI SHARMA)

JUDGE

Whether speaking/non-speaking : Yes/No

Whether reportable : Yes/No